

LEGISLATIVE BILL 868

Approved by the Governor April 15, 2004

Introduced by Redfield, 12; Aguilar, 35; Erdman, 47; Foley, 29; Friend, 10; Hudkins, 21; Quandahl, 31; Smith, 48; Stuhr, 24

AN ACT relating to education; to amend section 79-201, Reissue Revised Statutes of Nebraska, and section 84-712.05, Revised Statutes Supplement, 2002, as amended by section 1, Legislative Bill 236, Ninety-eighth Legislature, Second Session, 2004; to change and eliminate provisions relating to compulsory education and truancy; to provide for immunity from civil liability for certain employees as prescribed; to change provisions relating to confidentiality of student records as prescribed; to harmonize provisions; to repeal the original sections; and to outright repeal section 79-202, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 79-201, Reissue Revised Statutes of Nebraska, is amended to read:

79-201. (1) For purposes of this section:

(a) Prior to July 1, 2005, a child is of mandatory attendance age if the child (i) has reached seven years of age, (ii) did not reach sixteen years of age prior to the effective date of this act, and (iii) has not reached eighteen years of age; and

(b) On and after July 1, 2005, a child is of mandatory attendance age if the child (i) will reach six years of age prior to January 1 of the then-current school year, (ii) did not reach sixteen years of age prior to the effective date of this act, and (iii) has not reached eighteen years of age.

(2) Except as provided in ~~section 79-202~~ subsection (3) of this section, every person residing in a school district within the State of Nebraska who has legal or actual charge or control of any child who ~~is not less than seven years of age and not more than sixteen years of age or who is younger than seven years of age and is of mandatory attendance age or is enrolled in any a public school shall cause such child to enroll in, if such child is not enrolled, and attend regularly the a public, private, denominational, or parochial day schools~~ school which ~~meet~~ meets the requirements for legal operation prescribed in Chapter 79, or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements, each day that such ~~schools are~~ school is open and in session, except when excused by school authorities or when illness or severe weather conditions make attendance impossible or impracticable.

(3) Subsection (2) of this section does not apply in the case of any child who:

(a) Has obtained a high school diploma by meeting the graduation requirements established in section 79-729;

(b) Has completed the program of instruction offered by a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements;

(c) Has reached the age of eighteen years;

(d) Has reached the age of sixteen years and such child's parent or guardian has signed a notarized release discontinuing the enrollment of the child on a form provided by the school;

(e) (i) Will reach six years of age prior to January 1 of the then-current school year, but will not reach seven years of age prior to January 1 of such school year, (ii) such child's parent or guardian has signed an affidavit stating that the child is participating in an education program that the parent or guardian believes will prepare the child to enter grade one for the following school year, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides;

(f) (i) Will reach six years of age prior to January 1 of the then-current school year but has not reached seven years of age, (ii) such child's parent or guardian has signed an affidavit stating that the parent or guardian intends for the child to participate in a school which has elected or will elect pursuant to section 79-1601 not to meet accreditation or approval requirements and the parent or guardian intends to provide the Commissioner of Education with a statement pursuant to subsection (3) of section 79-1601 on or before the child's seventh birthday, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides;
or

(g) Will not reach six years of age prior to January 1 of the then-current school year and such child was enrolled in a public school and has discontinued the enrollment according to the policy of the school board adopted pursuant to subsection (4) of this section.

(4) The board shall adopt policies allowing discontinuation of the enrollment of students who will not reach six years of age prior to January 1 of the then-current school year and specifying the procedures therefor. 7 unless such child has graduated from high school. Any person with legal or actual charge or control of a child younger than seven years of age who is enrolled in a public school may discontinue the enrollment of such child pursuant to the policy of the school board. All school boards shall adopt policies allowing discontinuation of the enrollment of students younger than seven years of age and specifying the procedures therefor.

The school term shall be as provided in section 79-211.

Sec. 2. (1) Until July 1, 2005, any person employed by a school approved or accredited by the State Department of Education, employed by an educational service unit and working in a school approved or accredited by the department, or employed by an early childhood education program approved by the department who serves as a school nurse or medication aide or who has been designated and trained by the school, educational service unit, or program as a nonmedical staff person to implement the emergency response to life-threatening asthma or systemic allergic reactions protocols adopted by the school, educational service unit, or program shall be immune from civil liability for any act or omission in rendering emergency care for a person experiencing a potentially life-threatening asthma or allergic reaction event on school grounds, in a vehicle being used for school purposes, in a vehicle being used for educational service unit purposes, at a school-sponsored activity or athletic event, at a facility used by the early childhood education program, in a vehicle being used for early childhood education program purposes, or at an activity sponsored by the early childhood education program which results in damage or injury unless such damage or injury was caused by the willful or wanton act or omission of such employee.

(2) The individual immunity granted by subsection (1) of this section shall not extend to the school district, educational service unit, or early childhood education program and shall not extend to any act or omission of such employee which results in damage or injury if the damage or injury is caused by such employee while impaired by alcohol or any controlled substance enumerated in section 28-405.

Sec. 3. Section 84-712.05, Revised Statutes Supplement, 2002, as amended by section 1, Legislative Bill 236, Ninety-eighth Legislature, Second Session, 2004, is amended to read:

84-712.05. The following records, unless publicly disclosed in an open court, open administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties, may be withheld from the public by the lawful custodian of the records:

(1) Personal information in records regarding a student, prospective student, or former student of any ~~tax-supported~~ educational institution maintaining the records or exempt school that has effectuated an election not to meet state approval or accreditation requirements pursuant to section 79-1601 when such records are maintained by and in the possession of a public entity, other than routine directory information specified and made public consistent with 20 U.S.C. 1232g, as such section existed on January 1, 2003;

(2) Medical records, other than records of births and deaths and except as provided in subdivision (5) of this section, in any form concerning any person, and also records of elections filed under section 44-2821;

(3) Trade secrets, academic and scientific research work which is in progress and unpublished, and other proprietary or commercial information which if released would give advantage to business competitors and serve no public purpose;

(4) Records which represent the work product of an attorney and the public body involved which are related to preparation for litigation, labor negotiations, or claims made by or against the public body or which are confidential communications as defined in section 27-503;

(5) Records developed or received by law enforcement agencies and other public bodies charged with duties of investigation or examination of persons, institutions, or businesses, when the records constitute a part of the examination, investigation, intelligence information, citizen complaints or inquiries, informant identification, or strategic or tactical information used in law enforcement training, except that this subdivision shall not apply to records so developed or received relating to the presence of and amount or concentration of alcohol or drugs in any body fluid of any person;

(6) Appraisals or appraisal information and negotiation records

concerning the purchase or sale, by a public body, of any interest in real or personal property, prior to completion of the purchase or sale;

(7) Personal information in records regarding personnel of public bodies other than salaries and routine directory information;

(8) Information solely pertaining to protection of the security of public property and persons on or within public property, such as specific, unique vulnerability assessments or specific, unique response plans, either of which is intended to prevent or mitigate criminal acts the public disclosure of which would create a substantial likelihood of endangering public safety or property; computer or communications network schema, passwords, and user identification names; guard schedules; or lock combinations;

(9) The security standards, procedures, policies, plans, specifications, diagrams, access lists, and other security-related records of the Lottery Division of the Department of Revenue and those persons or entities with which the division has entered into contractual relationships. Nothing in this subdivision shall allow the division to withhold from the public any information relating to amounts paid persons or entities with which the division has entered into contractual relationships, amounts of prizes paid, the name of the prize winner, and the city, village, or county where the prize winner resides;

(10) With respect to public utilities and except as provided in sections 43-512.06 and 70-101, personally identified private citizen account payment information, credit information on others supplied in confidence, and customer lists;

(11) Records or portions of records kept by a publicly funded library which, when examined with or without other records, reveal the identity of any library patron using the library's materials or services;

(12) Correspondence, memoranda, and records of telephone calls related to the performance of duties by a member of the Legislature in whatever form. The lawful custodian of the correspondence, memoranda, and records of telephone calls, upon approval of the Executive Board of the Legislative Council, shall release the correspondence, memoranda, and records of telephone calls which are not designated as sensitive or confidential in nature to any person performing an audit of the Legislature. A member's correspondence, memoranda, and records of confidential telephone calls related to the performance of his or her legislative duties shall only be released to any other person with the explicit approval of the member;

(13) Records or portions of records kept by public bodies which would reveal the location, character, or ownership of any known archaeological, historical, or paleontological site in Nebraska when necessary to protect the site from a reasonably held fear of theft, vandalism, or trespass. This section shall not apply to the release of information for the purpose of scholarly research, examination by other public bodies for the protection of the resource or by recognized tribes, the Unmarked Human Burial Sites and Skeletal Remains Protection Act, or the federal Native American Graves Protection and Repatriation Act;

(14) Records or portions of records kept by public bodies which maintain collections of archaeological, historical, or paleontological significance which reveal the names and addresses of donors of such articles of archaeological, historical, or paleontological significance unless the donor approves disclosure, except as the records or portions thereof may be needed to carry out the purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act or the federal Native American Graves Protection and Repatriation Act;

(15) Job application materials submitted by applicants, other than finalists, who have applied for employment by any public body as defined in section 84-1409. For purposes of this subdivision, job application materials means employment applications, resumes, reference letters, and school transcripts, and finalist means any applicant who is offered and who accepts an interview by a public body or its agents, representatives, or consultants for any public employment position; and

(16) Social security numbers; credit card, charge card, or debit card numbers and expiration dates; and financial account numbers supplied to state and local governments by citizens.

Sec. 4. Original section 79-201, Reissue Revised Statutes of Nebraska, and section 84-712.05, Revised Statutes Supplement, 2002, as amended by section 1, Legislative Bill 236, Ninety-eighth Legislature, Second Session, 2004, are repealed.

Sec. 5. The following section is outright repealed: Section 79-202, Reissue Revised Statutes of Nebraska.