

SECOND REGULAR SESSION

SENATE BILL NO. 935

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS FOSTER AND CAUTHORN.

Read 1st time January 15, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

3736S.021

AN ACT

To repeal section 168.071, RSMo, relating to teacher certification, and to enact in lieu thereof one new section relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 168.071, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 168.071, to read as follows:

168.071. 1. The Missouri state board of education may refuse to issue or renew, or may suspend or revoke a certificate of license to teach upon satisfactory proof of incompetency, cruelty, immorality, drunkenness, neglect of duty, or the annulling of a written contract for reasons other than election to the general assembly, with the local board of education without the consent of the majority of the members of the board which is a party to the contract. Charges may be filed by any school district or, at the request of the school district, by the office of the attorney general [if the school district has been identified as financially stressed pursuant to section 161.520, RSMo] **for any matter other than the annulling of a written contract**. If the underlying conduct or actions which are the basis for charges filed [under] **pursuant to** this subsection are also the subject of a pending criminal charge against the person holding such certificate, and that person requests in writing a delayed hearing on advice of counsel [under] **pursuant to** the fifth amendment of the Constitution of the United States, no hearing shall be held until after final disposition of the criminal charge.

2. The state board of education may refuse to issue or renew, or may, upon hearing, suspend or revoke a certificate of license to teach if a certificate holder or applicant for a certificate has pleaded to or been found guilty of a felony or crime involving moral turpitude

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

[under] **pursuant to** the laws of this state or any other state or of the United States, or any other country, whether or not the sentence is imposed.

3. **Upon notice by first class mail to the last known address of the certificate holder**, the certificate of license to teach shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate holder or applicant has pleaded guilty to or been found guilty of any of the following offenses established pursuant to Missouri law or offenses of a similar nature established [under] **pursuant to** the laws of any other state or of the United States, or any other country, whether or not the sentence is imposed:

(1) Any dangerous felony as defined in section 556.061, RSMo, or murder in the first degree;

(2) Any of the following sexual offenses: rape; statutory rape in the first degree; statutory rape in the second degree; sexual assault; forcible sodomy; statutory sodomy in the first degree; statutory sodomy in the second degree; child molestation in the first degree; child molestation in the second degree; deviate sexual assault; sexual misconduct involving a child; sexual misconduct in the first degree; or sexual abuse;

(3) Any of the following offenses against the family and related offenses: incest; abandonment of child in the first degree; abandonment of child in the second degree; endangering the welfare of a child in the first degree; abuse of a child; child used in a sexual performance; promoting sexual performance by a child; or trafficking in children; and

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree; promoting child pornography in the first degree; promoting obscenity in the second degree when the penalty is enhanced to a class D felony; promoting child pornography in the second degree; possession of child pornography; furnishing pornographic materials to minors; coercing acceptance of obscene material; or sale or rental to persons under seventeen.

4. The certificate holder whose certificate was revoked pursuant to subsection 3 of this section may appeal such revocation to the state board of education. The certificate holder whose certificate has been revoked pursuant to subsection 3 of this section must notify the commissioner of education of the intent to appeal by advising the commissioner within thirty days of [the certificate holder's plea of guilty or finding of guilt of the intent to appeal] **notice of the revocation described in subsection 3 of this section**. Failure of the certificate holder to notify the commissioner of the intent to appeal waives all rights to appeal said revocation. Upon notice of the certificate holder's intent to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner of education, with the final decision made by the state board of education, based upon the record of that hearing. The certificate holder shall be given not less than thirty days' notice of the hearing, and an opportunity to be heard by the hearing officer, together with witnesses. In those cases where the plea of guilty to or finding of guilt of

any of the offenses listed in subsection 3 of this section involve a minor child, testimony from the minor child involved in the complaint shall not be required. The hearing officer shall accept into the record the transcript of any testimony of a child involved in such offense if such testimony was admitted in any court hearing. Subsection [6] 7 of this section shall apply to any final decision made by the state board of education pursuant to this subsection.

5. The charges filed with the state board of education [under] **pursuant to** this section shall be in writing and plainly and fully specify the basis for the charges. **If filed by or at the request of a local board of education,** the charges shall be signed by the chief administrative officer of the district or by the president of the board of education when so authorized by a majority of the board. The certificate holder shall be given not less than thirty days' notice of the hearing, and an opportunity to be heard, together with witnesses.

6. **Contested cases and other matters involving certificate holders, licensees or applicants pursuant to this section may be informally resolved by consent agreement, agreed settlement or voluntary surrender of the certificate or license.**

7. The certificate holder may appeal to the circuit court at any time within thirty days after receipt of the final decision of the state board of education. The appeal shall be heard with a jury at the option of either the certificate holder or the party filing the charges, and shall be tried de novo, affirming or denying the action of the state board of education. Costs shall be taxed against the appellant if the judgment of the state board of education is affirmed. In those cases where the charges allege immorality by the certificate holder involving a minor child, such case shall be heard by the court without a jury and any testimony from the minor child involved in the complaint shall be taken directly from the hearing record taken on behalf of the state board of education.

[7.] 8. The issuance of a certificate of license to teach to an individual who has been convicted of a felony or crime involving moral turpitude shall be issued only upon motion of the state board of education adopted by a unanimous affirmative vote of those members present and voting.