

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 753
89TH GENERAL ASSEMBLY

Reported from the Committee on Civil and Criminal Jurisprudence, February 11, 1998, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 753, adopted February 18, 1998.

Taken up for Perfection February 18, 1998. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

S3380.03P

AN ACT

To repeal section 168.071, RSMo 1994, relating to certification of teachers, 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Section A. Section 168.071, RSMo 1994, is repealed and one new section enacted in lieu thereof, to be known as section 168.071, to read as follows: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. [All charges must be preferred in writing. They shall be signed by the chief administrative officer of the district or by the president of the board when so authorized by a majority of the board. The charges must be sworn to by the party or parties making the accusation, and filed with the respective certificating authority. The teacher must be given due notice of not less than ten days, and an opportunity to be heard, together with witnesses, except that where] **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 162.520, RSMo. If the underlying conduct or actions which are the basis for charges filed**

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

under 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 the fifth amendment of the Constitution of the United States, no hearing shall be held until after final disposition of the criminal charge. [The complaint must plainly and fully specify what incompetency, immorality, neglect of duty or other charges are made against the teacher, and if after a hearing the certificate is refused, suspended, or revoked, the teacher may appeal to the circuit court at any time within ten days thereafter by filing a petition for review of the judgment of the certifying authority. On appeal the judge shall, with or without a jury at the option either of the teacher or the person making the complaint, try the matter de novo, affirming or denying the action of the certifying authority, and shall tax the cost against the appellant if the judgment of the certifying authority is affirmed. In those cases where the complaint alleges immorality by the teacher 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. If the court disaffirms the judgment, then it shall assess the costs of the whole proceedings against the district making the complaint.]

2. The state board of education may **refuse to issue or renew, or may suspend or** revoke a certificate of license to teach [upon conviction of a felony or crime involving moral turpitude by any certificate holder, including any such person employed by a nonpublic school.] **if a certificate holder or applicant for a certificate has pleaded to or been found guilty of a felony or crime involving moral turpitude under 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. **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:**

(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. 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 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 this section shall be in writing and plainly and fully specify the basis for the charges. 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. 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. 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.

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Bill

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