

1 HB37
2 114266-2
3 By Representative Fincher
4 RFD: Education Policy
5 First Read: 12-JAN-10
6 PFD: 11/05/2009

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8 SYNOPSIS: Under existing law, the State
9 Superintendent of Education is authorized to revoke
10 the teaching or other educational certificate of
11 any person who is guilty of immoral conduct or
12 unbecoming or indecent behavior.

13 Also, under existing law, the employment
14 contract, or employment, of an education employee
15 may be cancelled or terminated for incompetency,
16 neglect of duty, immorality, and other good and
17 just cause.

18 This bill would require the State
19 Superintendent of Education to revoke the teaching
20 or other educational certificate of any person
21 convicted of a felony or sex offense involving a
22 child and would provide for the immediate
23 cancellation of the employment contract or
24 employment of any education employee convicted of a
25 felony or sex offense involving a child.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 Relating to public education, to amend Section
5 16-23-5, Code of Alabama 1975, relating to the revocation of
6 teaching certificates; to require the State Superintendent of
7 Education to revoke the teaching or other educational
8 certificate of any person convicted of a felony or sex offense
9 involving a child; and to add Sections 16-24-8.1, 16-24B-3.1,
10 and 36-26-102.1 to the Code of Alabama 1975, relating to the
11 Teacher Tenure Law, the Teacher Accountability Act, and the
12 Fair Dismissal Act, to provide for the immediate cancellation
13 of the employment contract of a teacher on continuing service
14 status, a principal, or a contract principal and the immediate
15 termination of employment of a nonprobationary employee who is
16 convicted of a felony or sex offense involving a child.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Section 16-23-5 of the Code of Alabama
19 1975, is amended to read as follows:

20 "§16-23-5.

21 "(a) The State Superintendent of Education ~~shall~~
22 ~~have authority to~~ may revoke any certificate issued under ~~the~~
23 ~~provisions of~~ this chapter when the holder has been guilty of
24 immoral conduct or unbecoming or indecent behavior.

25 "(b) The State Superintendent of Education shall
26 immediately revoke any certificate issued under this chapter

1 when the holder is convicted of any felony or any of the
2 following:

3 "(1) Rape in the first or second degree, pursuant to
4 Section 13A-6-61 or 13A-6-62.

5 "(2) Sodomy in the first or second degree, pursuant
6 to Section 13A-6-63 or 13A-6-64.

7 "(3) Sexual torture, pursuant to Section 13A-6-65.1.

8 "(4) Sexual abuse in the first or second degree,
9 pursuant to Section 13A-6-66 or 13A-6-67.

10 "(5) Enticing a child to enter a vehicle, room,
11 house, office, or other place for immoral purposes, pursuant
12 to Section 13A-6-69.

13 "(6) Promoting prostitution in the first or second
14 degree, pursuant to Section 13A-12-111 or 13A-12-112.

15 "(7) Violation of the Alabama Child Pornography Act
16 pursuant to Section 13A-12-191, 13A-12-192, 13A-12-196, or
17 13A-12-197.

18 "(8) Kidnapping a minor, except by a parent, in the
19 first or second degree, pursuant to Section 13A-6-43 or
20 13A-6-44.

21 "(9) Incest, pursuant to Section 13A-13-3, when the
22 offender is an adult and the victim is a minor.

23 "(10) Transmitting obscene material to a child by
24 computer, pursuant to Section 13A-6-111.

25 "(11) Facilitating solicitation of unlawful sexual
26 conduct with a child, pursuant to Section 13A-6-121.

1 "(12) Electronic solicitation of a child or
2 facilitating the online solicitation of a child, pursuant to
3 Section 13A-6-122 or 13A-6-123.

4 "(13) Traveling to meet a child for an unlawful sex
5 act or facilitating the travel of a child for an unlawful sex
6 act, pursuant to Section 13A-6-124 or 13A-6-125.

7 "(14) Any solicitation, attempt, or conspiracy to
8 commit any of the offenses listed in subdivisions (1) to (13),
9 inclusive.

10 "(15) Any crime committed in any state or a federal,
11 military, or foreign jurisdiction which, if committed in this
12 state under the law existing at the time of the offense, would
13 constitute an offense listed in subdivisions (1) to (13),
14 inclusive.

15 "(16) Any criminal sex offense in which the victim
16 is a child under the age of 12 or any offense involving child
17 pornography.

18 "(17) Any crime committed in any jurisdiction which,
19 regardless of the specific description or statutory elements,
20 may be characterized or known as rape, sodomy, sexual assault,
21 sexual battery, sexual abuse, sexual torture, solicitation of
22 a child, enticing or luring a child, child pornography, lewd
23 and lascivious conduct, taking indecent liberties with a
24 child, or molestation of a child.

25 "(18) Any crime not listed in this subsection
26 involving endangerment to the health, safety, or welfare of a

1 child that may be created on or after the effective date of
2 the act adding this subdivision."

3 Section 2. Sections 16-24-8.1, 16-24B-3.1, and
4 36-26-102.1 are added to the Code of Alabama 1975, as follows:

5 §16-24-8.1.

6 (a) Notwithstanding any other provision of this
7 chapter, the employment contract of a teacher on continuing
8 service status, whose teaching certificate is revoked by the
9 State Superintendent of Education pursuant to subsection (b)
10 of Section 16-23-5, shall be cancelled.

11 (b) If the conviction resulting in the revocation of
12 the teaching certificate pursuant to subsection (b) of Section
13 16-23-5 is overturned on appeal, the State Superintendent of
14 Education, upon receipt of notice of the reversal from the
15 Administrative Office of Courts, may reinstate the teaching
16 certificate of the teacher, and the local board of education,
17 upon recommendation of the local superintendent of education,
18 may enter into a new employment contract with the teacher.
19 Regardless of whether the teaching certificate of the teacher
20 is reinstated or a new employment contract is entered into,
21 the teacher shall be reimbursed for any back pay, plus
22 benefits, from the date of cancellation, up to and including
23 the date his or her conviction is overturned.

24 (c) Nothing in this section shall be construed to
25 preclude the State Superintendent of Education or the local
26 board of education from pursuing other legal action against

1 the teacher based upon the underlying circumstances of the
2 conviction.

3 §16-24B-3.1

4 (a) Notwithstanding any other provision of this
5 chapter, the employment contract of a principal or contract
6 principal, whose certificate is revoked by the State
7 Superintendent of Education pursuant to subsection (b) of
8 Section 16-23-5, shall be cancelled.

9 (b) If the conviction resulting in the revocation of
10 the certificate pursuant to subsection (b) of Section 16-23-5
11 is overturned on appeal, the State Superintendent of
12 Education, upon receipt of notice of the reversal from the
13 Administrative Office of Courts, may reinstate the certificate
14 of the principal or contract principal, and the local board of
15 education, upon recommendation of the local superintendent of
16 education, may enter into a new employment contract with the
17 principal or contract principal. Regardless of whether the
18 certificate of the principal or contract principal is
19 reinstated or a new employment contract is entered into, the
20 principal or contract principal shall be reimbursed for any
21 back pay, plus benefits, from the date of cancellation, up to
22 and including the date his or her conviction is overturned.

23 (c) Nothing in this section shall be construed to
24 preclude the State Superintendent of Education or the local
25 board of education from pursuing other legal action against
26 the principal or contract principal based upon the underlying
27 circumstances of the conviction.

1 §36-26-102.1.

2 (a) Notwithstanding any other provision of this
3 article, the employment of an employee on nonprobationary
4 status, who is convicted of any crime listed in subsection (b)
5 of Section 16-23-5, shall be terminated.

6 (b) If the conviction resulting in the termination
7 of employment is overturned on appeal, upon receipt of notice
8 of the reversal from the Administrative Office of Courts, the
9 local board of education, upon the recommendation of the local
10 superintendent of education, may reinstate the employee.

11 Regardless of whether the employee is reinstated, the employee
12 shall be reimbursed for any back pay, plus benefits, from the
13 date of termination, up to and including the date his or her
14 conviction is overturned.

15 (c) Nothing in this section shall be construed to
16 preclude the local superintendent of education or local board
17 of education from pursuing other legal action against the
18 employee based upon the underlying circumstances of the
19 conviction.

20 Section 3. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.