

1 HB37
2 117252-5
3 By Representative Fincher
4 RFD: Education Policy
5 First Read: 12-JAN-10
6 PFD: 11/05/2009

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2 ENROLLED, An Act,

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

1 circumstances listed in subsection (b), the holder shall be
2 immediately disenfranchised from certification and any other
3 rights pursuant to Section 16-24-9.

4 "(b) The State Superintendent of Education shall
5 immediately revoke any certificate issued under this chapter
6 when the holder is convicted of capital murder or any Class A
7 felony, including, but not limited to, rape, murder,
8 kidnapping, or robbery, or any of the following:

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

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

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

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

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

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

21 "(7) Violation of the Alabama Child Pornography Act
22 pursuant to Section 13A-12-191, 13A-12-192, 13A-12-196, or
23 13A-12-197.

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

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

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

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

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

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

15 "(14) Any solicitation, attempt, or conspiracy to
16 commit any of the offenses listed in subdivisions (1) to (13),
17 inclusive.

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

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

1 "(17) Any crime committed in any jurisdiction which,
2 regardless of the specific description or statutory elements,
3 may be characterized or known as rape, sodomy, sexual assault,
4 sexual battery, sexual abuse, sexual torture, solicitation of
5 a child, enticing or luring a child, child pornography, lewd
6 and lascivious conduct, taking indecent liberties with a
7 child, or molestation of a child.

8 "(18) Any crime not listed in this subsection
9 involving endangerment to the health, safety, or welfare of a
10 child that may be created on or after the effective date of
11 the act adding this subdivision."

12 Section 2. Sections 16-24-8.1, 16-24B-3.1, and
13 36-26-102.1 are added to the Code of Alabama 1975, as follows:

14 §16-24-8.1.

15 (a) Notwithstanding any other provision of this
16 chapter, the employment contract of a teacher on continuing
17 service status, whose teaching certificate is revoked by the
18 State Superintendent of Education pursuant to subsection (b)
19 of Section 16-23-5, shall be immediately cancelled, any
20 provision of Sections 16-24-8, 16-24-9, and 16-24-10, to the
21 contrary notwithstanding.

22 (b) If the conviction resulting in the revocation of
23 the teaching certificate pursuant to subsection (b) of Section
24 16-23-5 is overturned on appeal, the State Superintendent of
25 Education, upon receipt of notice of the reversal shall

1 immediately reinstate the teaching certificate of the teacher,
2 and the local board of education, at its discretion, shall
3 place the teacher in a position commensurate with the
4 employee's licensure from the State Department of Education or
5 on paid administrative leave. Regardless of whether the
6 teaching certificate of the teacher is reinstated or a new
7 employment contract is entered into, the teacher, within 45
8 days, shall be reimbursed for any back pay, plus benefits,
9 from the date of cancellation, up to and including the date
10 his or her conviction is overturned.

11 (c) Nothing in this section shall be construed to
12 preclude the State Superintendent of Education or the local
13 board of education from pursuing other legal action against
14 the teacher based upon the underlying circumstances of the
15 conviction.

16 §16-24B-3.1

17 (a) Notwithstanding any other provision of this
18 chapter, the employment contract of a principal or contract
19 principal, whose certificate is revoked by the State
20 Superintendent of Education pursuant to subsection (b) of
21 Section 16-23-5, shall be immediately cancelled, any provision
22 of Section 16-24B-3 to the contrary notwithstanding.

23 (b) If the conviction resulting in the revocation of
24 the certificate pursuant to subsection (b) of Section 16-23-5
25 is overturned on appeal, the State Superintendent of

1 Education, upon receipt of notice of the reversal shall
2 immediately reinstate the certificate of the principal or
3 contract principal, and the local board of education, at its
4 discretion, shall place the principal or contract principal in
5 a position commensurate with the employee's licensure from the
6 State Department of Education or on paid administrative leave.
7 ~~The principal~~ Regardless of whether the certificate of the
8 principal or contract principal is reinstated or a new
9 employment contract is entered into, the principal or contract
10 principal, within 45 days, shall be reimbursed for any back
11 pay, plus benefits, from the date of cancellation, up to and
12 including the date his or her conviction is overturned.

13 (c) Nothing in this section shall be construed to
14 preclude the State Superintendent of Education or the local
15 board of education from pursuing other legal action against
16 the principal or contract principal based upon the underlying
17 circumstances of the conviction.

18 §36-26-102.1.

19 (a) Notwithstanding any other provision of this
20 article, the employment of an employee on nonprobationary
21 status, who is convicted of any crime listed in subsection (b)
22 of Section 16-23-5, shall be immediately terminated, any
23 provision of Sections 36-26-102, 36-26-103, and 36-26-104 to
24 the contrary notwithstanding.

1 (b) If the conviction resulting in the termination
2 of employment is overturned on appeal, upon receipt of notice
3 of the reversal, the local board of education, upon the
4 recommendation of the local superintendent of education, shall
5 immediately reinstate the employee to a position comparable to
6 the employee's most recent job assignment or on paid
7 administrative leave. Regardless of whether the employee is
8 reinstated, the employee, within 45 days, shall be reimbursed
9 for any back pay, plus benefits, from the date of termination,
10 up to and including the date his or her conviction is
11 overturned.

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

17 Section 3. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 04-FEB-10, as amended.

Greg Pappas
Clerk

Senate

25-MAR-10

Passed