

SECOND REGULAR SESSION

HOUSE BILL NO. 2371

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CURTIS.

6312H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 168.071, RSMo, and to enact in lieu thereof two new sections relating to school superintendents, with penalty provisions.

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

Section A. Section 168.071, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 21.412 and 168.071, to read as follows:

21.412. If a school superintendent fails to appear before any committee of the senate or house of representatives after receiving an official invitation requesting, but not requiring through a subpoena or summons, his or her appearance, the superintendent:

(1) Shall be fined in an amount equal to the annual salary he or she receives as a superintendent; and

(2) Shall have his or her certificate of license to teach suspended as described under section 168.071.

168.071. 1. The state board of education may refuse to issue or renew a certificate, or may, upon hearing, discipline the holder of a certificate of license to teach for the following causes:

(1) 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, any other state, of the United States, or any other country, whether or not sentence is imposed;

(2) The certification was obtained through use of fraud, deception, misrepresentation or bribery;

(3) There is evidence of incompetence, immorality, or neglect of duty by the certificate holder;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 (4) A certificate holder has been subject to disciplinary action relating to certification
12 issued by another state, territory, federal agency, or country upon grounds for which discipline
13 is authorized in this section; or

14 (5) If charges are filed by the local board of education, based upon the annulling of a
15 written contract with the local board of education, for reasons other than election to the general
16 assembly, without the consent of the majority of the members of the board that is a party to the
17 contract.

18 2. A public school district may file charges seeking the discipline of a holder of a
19 certificate of license to teach based upon any cause or combination of causes outlined in
20 subsection 1 of this section, including annulment of a written contract. Charges shall be in
21 writing, specify the basis for the charges, and be signed by the chief administrative officer of the
22 district, or by the president of the board of education as authorized by a majority of the board of
23 education. The board of education may also petition the office of the attorney general to file
24 charges on behalf of the school district for any cause other than annulment of contract, with
25 acceptance of the petition at the discretion of the attorney general.

26 3. The department of elementary and secondary education may file charges seeking the
27 discipline of a holder of a certificate of license to teach based upon any cause or combination of
28 causes outlined in subsection 1 of this section, other than annulment of contract. Charges shall
29 be in writing, specify the basis for the charges, and be signed by legal counsel representing the
30 department of elementary and secondary education.

31 4. If the underlying conduct or actions which are the basis for charges filed pursuant to
32 this section are also the subject of a pending criminal charge against the person holding such
33 certificate, the certificate holder may request, in writing, a delayed hearing on advice of counsel
34 under the fifth amendment of the Constitution of the United States. Based upon such a request,
35 no hearing shall be held until after a trial has been completed on this criminal charge.

36 5. The certificate holder shall be given not less than thirty days' notice of any hearing
37 held pursuant to this section.

38 6. Other provisions of this section notwithstanding, the certificate of license to teach
39 shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate
40 holder or applicant has been found guilty of any of the following offenses established pursuant
41 to Missouri law or offenses of a similar nature established under the laws of Missouri prior to
42 January 1, 2017, any other state or of the United States, or any other country, whether or not the
43 sentence is imposed:

44 (1) Any dangerous felony as defined in section 556.061, or murder in the first degree
45 under section 565.020;

46 (2) Any of the following sexual offenses: rape in the first degree under section 566.030;
47 forcible rape; rape; statutory rape in the first degree under section 566.032; statutory rape in the
48 second degree under section 566.034; rape in the second degree under section 566.031; sexual
49 assault under section 566.040 as it existed prior to August 28, 2013; sodomy in the first degree
50 under section 566.060; forcible sodomy under section 566.060 as it existed prior to August 28,
51 2013; sodomy as it existed prior to January 1, 1995; statutory sodomy in the first degree under
52 section 566.062; statutory sodomy in the second degree under section 566.064; child molestation
53 in the first degree; child molestation in the second degree; child molestation in the third degree
54 under section 566.069; child molestation in the fourth degree under section 566.071; sodomy in
55 the second degree under section 566.061; deviate sexual assault under section 566.070 as it
56 existed prior to August 28, 2013; sexual misconduct involving a child under section 566.083;
57 sexual contact with a student under section 566.086; sexual misconduct in the first degree under
58 section 566.093; sexual misconduct in the first degree under section 566.090 as it existed prior
59 to August 28, 2013; sexual misconduct in the second degree under section 566.095; sexual
60 misconduct in the second degree under section 566.093 as it existed prior to August 28, 2013;
61 sexual misconduct in the third degree under section 566.095 as it existed prior to August 28,
62 2013; sexual abuse in the first degree under section 566.100; sexual abuse under section 566.100
63 as it existed prior to August 28, 2013; sexual abuse in the second degree under section 566.101;
64 enticement of a child under section 566.151; or attempting to entice a child;

65 (3) Any of the following offenses against the family and related offenses: incest under
66 section 568.020; abandonment of child in the first degree under section 568.030; abandonment
67 of child in the second degree under section 568.032; endangering the welfare of a child in the
68 first degree under section 568.045; abuse of a child under section 568.060; child used in a sexual
69 performance; promoting sexual performance by a child; or trafficking in children under section
70 568.175; and

71 (4) Any of the following offenses involving child pornography and related offenses:
72 promoting obscenity in the first degree under section 573.020; promoting pornography for
73 minors or obscenity in the second degree when the penalty is enhanced to a class E felony under
74 section 573.030; promoting child pornography in the first degree under section 573.025;
75 promoting child pornography in the second degree under section 573.035; possession of child
76 pornography under section 573.037; furnishing pornographic materials to minors under section
77 573.040; or coercing acceptance of obscene material under section 573.065.

78 7. When a certificate holder is found guilty of any offense that would authorize the state
79 board of education to seek discipline against that holder's certificate of license to teach, the local
80 board of education or the department of elementary and secondary education shall immediately

81 provide written notice to the state board of education and the attorney general regarding the
82 finding of guilt.

83 8. The certificate holder whose certificate was revoked pursuant to subsection 6 of this
84 section may appeal such revocation to the state board of education. Notice of this appeal must
85 be received by the commissioner of education within ninety days of notice of revocation pursuant
86 to this subsection. Failure of the certificate holder to notify the commissioner of the intent to
87 appeal waives all rights to appeal the revocation. Upon notice of the certificate holder's intent
88 to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner
89 of education, with the final decision made by the state board of education, based upon the record
90 of that hearing. The certificate holder shall be given not less than thirty days' notice of the
91 hearing, and an opportunity to be heard by the hearing officer, together with witnesses.

92 9. In the case of any certificate holder who has surrendered or failed to renew his or her
93 certificate of license to teach, the state board of education may refuse to issue or renew, or may
94 suspend or revoke, such certificate for any of the reasons contained in this section.

95 10. In those cases where the charges filed pursuant to this section are based upon an
96 allegation of misconduct involving a minor child, the hearing officer may accept into the record
97 the sworn testimony of the minor child relating to the misconduct received in any court or
98 administrative hearing.

99 11. Hearings, appeals or other matters involving certificate holders, licensees or
100 applicants pursuant to this section may be informally resolved by consent agreement or agreed
101 settlement or voluntary surrender of the certificate of license pursuant to the rules promulgated
102 by the state board of education.

103 12. The final decision of the state board of education is subject to judicial review
104 pursuant to sections 536.100 to 536.140.

105 13. A certificate of license to teach to an individual who has been convicted of a felony
106 or crime involving moral turpitude, whether or not sentence is imposed, shall be issued only
107 upon motion of the state board of education adopted by a unanimous affirmative vote of those
108 members present and voting.

109 **14. (1) Other provisions of this section notwithstanding, the certificate of license**
110 **to teach of a school superintendent shall be suspended if the superintendent fails to appear**
111 **before any committee of the senate or house of representatives after receiving an official**
112 **invitation requesting, but not requiring through a subpoena or summons, his or her**
113 **appearance.**

114 **(2) The department of elementary and secondary education shall be required to file**
115 **charges in accordance with the procedures set forth in this section seeking the suspension**

116 of the certificate of license to teach of a superintendent based upon the cause described in
117 this subsection.

118 (3) The certificate of license to teach of a superintendent suspended under this
119 subsection shall remain suspended until the state board of education receives a letter
120 signed by a majority of the members of the committee before which the superintendent
121 failed to appear directing the state board of education to lift the suspension.

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