

1 ENGROSSED SENATE
2 BILL NO. 301

By: Loveless of the Senate

3 and

4 Biggs of the House

5
6 [schools - State Board of Education - Administrative
7 Procedures Act - noncertification of convicted felons
8 - codification - ~~effective date~~ -

9 ~~emergency~~]

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 3-104.8 of Title 70, unless
13 there is created a duplication in numbering, reads as follows:

14 A. In addition to the powers and duties specified in Section 3-
15 104 of Title 70 of the Oklahoma Statutes, the State Board of
16 Education shall deny certification to and revoke the certification
17 of any person upon determining that such person has been convicted,
18 whether upon a verdict or plea of guilty or upon a plea of nolo
19 contendere or receipt of a deferred sentence, a suspended sentence
20 or any probationary term for a felony or a crime involving moral
21 turpitude, a domestic violence offense, or a crime involving a
22 minor; provided, that if the conviction has been reversed, vacated
23 or otherwise invalidated by an appellate court, such conviction
24

1 shall not be the basis for revocation of certification. The sole
2 issue to be determined at the hearing before the State Board of
3 Education shall be whether the person has been convicted of a
4 felony, a crime involving moral turpitude, a domestic violence
5 offense, or a crime involving a minor.

6 B No person who has had a certification from another state
7 revoked or who has voluntarily surrendered that certification shall
8 be considered for certification by the State Board of Education
9 within five (5) years of the effective date of any such revocation
10 or voluntary surrender of certification.

11 C. Any person seeking reinstatement of a certification which
12 has been suspended, revoked, or voluntarily surrendered may apply
13 for reinstatement pursuant to rules promulgated by the State Board
14 of Education governing reinstatement. Upon reinstatement, any
15 person whose certification has been revoked, suspended, or
16 voluntarily surrendered shall pay a reinstatement fee as established
17 by the State Board of Education.

18 D. The State Board of Education may suspend the certification
19 of an administrator, teacher, support personnel, or bus driver,
20 without notice but otherwise subject to the Administrative
21 Procedures Act, if the State Board of Education finds that the
22 actions of the individual may involve a crime against a minor or may
23 present a danger to the individual, the public, a family or
24 household member or students.

1 E. The State Board of Education may deny certification to or
2 revoke the license of any individual upon a finding that the
3 individual falsified, altered, or forged the information or data
4 certified or submitted to the State Department of Education through
5 application, verification, or to obtain funding from the State
6 Department of Education.

7 F. Every local school district board of education in this state
8 shall, within thirty (30) days of the issuance of a final order of
9 termination or receipt of a notice of resignation from an employee
10 certified by the State Board of Education while the employee is
11 under investigation for an alleged violation of any state law,
12 report such order or resignation in writing to the State Department
13 of Education. Any report, upon receipt by the Department, shall be
14 considered personnel records and shall be afforded confidential
15 protection pursuant to Sections 24A.7 and 24A.8 of Title 51 of the
16 Oklahoma Statutes. The Department shall ensure that the report is
17 provided to all members of the State Board of Education. The State
18 Board of Education may, by a majority vote, order the suspension for
19 a given period of time, or revocation of the certification of the
20 individual in question if there are sufficient grounds for such
21 actions pursuant to this paragraph and the individual in question
22 has been provided with notice and an opportunity for a hearing
23 pursuant to the Administrative Procedures Act. The State Department
24 of Education shall report all suspensions or revocations of

1 certification pursuant to this paragraph to the district attorney
2 for the jurisdiction in which the individual was employed.

3 G. The State Board of Education shall discuss the suspension or
4 revocation of the certification of an individual pursuant to
5 subsection F of this section in executive session; provided,
6 however, that any vote or action thereon shall be taken in a public
7 meeting. All records and investigatory files considered by the
8 State Board of Education shall be kept confidential.

9 H. All proceedings initiated pursuant to this section shall be
10 conducted pursuant to the requirements of the Administrative
11 Procedures Act and after sufficient hearing has been given before
12 the State Board of Education.

13 I. The State Board of Education, or its authorized
14 representative, shall be entitled to inspect and receive, upon
15 request, all records necessary to implement the provisions of this
16 section, including but not limited to court records, agency records,
17 district attorney's records, and all state, federal, county or
18 municipal agency law enforcement records, unless federal law
19 prohibits such inspection or receipt.

20 SECTION 2. AMENDATORY 70 O.S. 2011, Section 3-104, as
21 last amended by Section 1, Chapter 271, O.S.L. 2013 (70 O.S. Supp.
22 2014, Section 3-104), is amended to read as follows:

23 Section 3-104. The supervision of the public school system of
24 Oklahoma shall be vested in the State Board of Education and,

1 subject to limitations otherwise provided by law, the State Board of
2 Education shall:

3 1. Adopt policies and make rules for the operation of the
4 public school system of the state;

5 2. Appoint, prescribe the duties and fix the compensation of a
6 secretary, an attorney and all other personnel necessary for the
7 proper performance of the functions of the State Board of Education.
8 The secretary shall not be a member of the Board;

9 3. Submit to the Governor a departmental budget based upon
10 major functions of the Department as prepared by the State
11 Superintendent of Public Instruction and supported by detailed data
12 on needs and proposed operations as partially determined by the
13 budgetary needs of local school districts filed with the State Board
14 of Education for the ensuing fiscal year. Appropriations therefor
15 shall be made in lump-sum form for each major item in the budget as
16 follows:

17 a. State Aid to schools,

18 b. the supervision of all other functions of general and
19 special education including general control, free
20 textbooks, school lunch, Indian education and all
21 other functions of the Board and an amount sufficient
22 to adequately staff and administer these services, and

23 c. the Board shall determine the details by which the
24 budget and the appropriations are administered.

1 Annually, the Board shall make preparations to
2 consolidate all of the functions of the Department in
3 such a way that the budget can be based on two items,
4 administration and aid to schools. A maximum amount
5 for administration shall be designated as a part of
6 the total appropriation;

7 4. On the first day of December preceding each regular session
8 of the Legislature, prepare and deliver to the Governor and the
9 Legislature a report for the year ending June 30 immediately
10 preceding the regular session of the Legislature. The report shall
11 contain:

- 12 a. detailed statistics and other information concerning
13 enrollment, attendance, expenditures including State
14 Aid, and other pertinent data for all public schools
15 in this state,
- 16 b. reports from each and every division within the State
17 Department of Education as submitted by the State
18 Superintendent of Public Instruction and any other
19 division, department, institution or other agency
20 under the supervision of the Board,
- 21 c. recommendations for the improvement of the public
22 school system of the state,
- 23 d. a statement of the receipts and expenditures of the
24 State Board of Education for the past year, and

1 e. a statement of plans and recommendations for the
2 management and improvement of public schools and such
3 other information relating to the educational
4 interests of the state as may be deemed necessary and
5 desirable;

6 5. Provide for the formulation and adoption of curricula,
7 courses of study and other instructional aids necessary for the
8 adequate instruction of pupils in the public schools;

9 6. Have authority in matters pertaining to the licensure and
10 certification of persons for instructional, supervisory and
11 administrative positions and services in the public schools of the
12 state subject to the provisions of Section 6-184 of this title, and
13 shall formulate rules governing the issuance and revocation of
14 certificates for superintendents of schools, principals,
15 supervisors, librarians, clerical employees, school nurses, school
16 bus drivers, visiting teachers, classroom teachers and for other
17 personnel performing instructional, administrative and supervisory
18 services, but not including members of boards of education and other
19 employees who do not work directly with pupils, and may charge and
20 collect reasonable fees for the issuance of such certificates:

21 a. the State Department of Education shall not issue a
22 certificate to and shall revoke the certificate of any
23 person who has been convicted, whether upon a verdict
24 or plea of guilty or upon a plea of nolo contendere,

1 or received a suspended sentence or any probationary
2 term for a crime or an attempt to commit a crime
3 provided for in Section 843.5 of Title 21 of the
4 Oklahoma Statutes if the offense involved sexual abuse
5 or sexual exploitation as those terms are defined in
6 Section 1-1-105 of Title 10A of the Oklahoma Statutes,
7 Sections 741, 843.1, if the offense included sexual
8 abuse or sexual exploitation, 865 et seq., 885, 888,
9 891, 1021, 1021.2, 1021.3, 1040.13a, 1087, 1088,
10 1111.1, 1114 or 1123 of Title 21 of the Oklahoma
11 Statutes or who enters this state and who has been
12 convicted, received a suspended sentence or received a
13 deferred judgment for a crime or attempted crime
14 which, if committed or attempted in this state, would
15 be a crime or an attempt to commit a crime provided
16 for in any of said laws,

17 b. the State Board of Education may take appropriate
18 action, in accordance with Article II of the
19 Administrative Procedures Act, to deny certification
20 to and revoke or suspend the certification of any
21 individual pursuant to the provisions of Section 1 of
22 this act,

23 c. the State Board of Education may appoint, prescribe
24 the duties, and fix the compensation of an

1 investigator to assist the Board in the issuance,
2 denial, revocation or suspension of certificates
3 pursuant to the provisions of Section 1 of this act,

4 d. all funds collected by the State Department of
5 Education for the issuance of certificates to
6 instructional, supervisory and administrative
7 personnel in the public schools of the state shall be
8 deposited in the "Teachers' Certificate Fund" in the
9 State Treasury and may be expended by the State Board
10 of Education to finance the activities of the State
11 Department of Education necessary to administer the
12 program, for consultative services, publication costs,
13 actual and necessary travel expenses as provided in
14 the State Travel Reimbursement Act incurred by persons
15 performing research work, and other expenses found
16 necessary by the State Board of Education for the
17 improvement of the preparation and certification of
18 teachers in Oklahoma. Provided, any unobligated
19 balance in the Teachers' Certificate Fund in excess of
20 Ten Thousand Dollars (\$10,000.00) on June 30 of any
21 fiscal year shall be transferred to the General
22 Revenue Fund of the State of Oklahoma. Until July 1,
23 1997, the State Board of Education shall have
24 authority for approval of teacher education programs.

1 The State Board of Education shall also have authority
2 for the administration of teacher residency and
3 professional development, subject to the provisions of
4 the Oklahoma Teacher Preparation Act;

5 7. Promulgate rules governing the classification, inspection,
6 supervision and accrediting of all public nursery, kindergarten,
7 elementary and secondary schools and on-site educational services
8 provided by public school districts or state-accredited private
9 schools in partial hospitalization programs, day treatment programs,
10 and day hospital programs as defined in this act for persons between
11 the ages of three (3) and twenty-one (21) years of age in the state.
12 However, no school shall be denied accreditation solely on the basis
13 of average daily attendance.

14 Any school district which maintains an elementary school and
15 faces the necessity of relocating its school facilities because of
16 construction of a lake, either by state or federal authority, which
17 will inundate the school facilities, shall be entitled to receive
18 probationary accreditation from the State Board of Education for a
19 period of five (5) years after ~~the effective date of this act~~ June
20 12, 1975, and any school district, otherwise qualified, shall be
21 entitled to receive probationary accreditation from the State Board
22 of Education for a period of two (2) consecutive years to attain the
23 minimum average daily attendance. The Head Start and public
24 nurseries or kindergartens operated from Community Action Program

1 funds shall not be subjected to the accrediting rules of the State
2 Board of Education. Neither will the State Board of Education make
3 rules affecting the operation of the public nurseries and
4 kindergartens operated from federal funds secured through Community
5 Action Programs even though they may be operating in the public
6 schools of the state. However, any of the Head Start or public
7 nurseries or kindergartens operated under federal regulations may
8 make application for accrediting from the State Board of Education
9 but will be accredited only if application for the approval of the
10 programs is made. The status of no school district shall be changed
11 which will reduce it to a lower classification until due notice has
12 been given to the proper authorities thereof and an opportunity
13 given to correct the conditions which otherwise would be the cause
14 of such reduction.

15 Private and parochial schools may be accredited and classified
16 in like manner as public schools or, if an accrediting association
17 is approved by the State Board of Education, by procedures
18 established by the State Board of Education to accept accreditation
19 by such accrediting association, if application is made to the State
20 Board of Education for such accrediting;

21 8. Be the legal agent of the State of Oklahoma to accept, in
22 its discretion, the provisions of any Act of Congress appropriating
23 or apportioning funds which are now, or may hereafter be, provided
24 for use in connection with any phase of the system of public

1 education in Oklahoma. It shall prescribe such rules as it finds
2 necessary to provide for the proper distribution of such funds in
3 accordance with the state and federal laws;

4 9. Be and is specifically hereby designated as the agency of
5 this state to cooperate and deal with any officer, board or
6 authority of the United States Government under any law of the
7 United States which may require or recommend cooperation with any
8 state board having charge of the administration of public schools
9 unless otherwise provided by law;

10 10. Be and is hereby designated as the "State Educational
11 Agency" referred to in Public Law 396 of the 79th Congress of the
12 United States, which law states that said act may be cited as the
13 "National School Lunch Act", and said State Board of Education is
14 hereby authorized and directed to accept the terms and provisions of
15 said act and to enter into such agreements, not in conflict with the
16 Constitution of Oklahoma or the Constitution and Statutes of the
17 United States, as may be necessary or appropriate to secure for the
18 State of Oklahoma the benefits of the school lunch program
19 established and referred to in said act;

20 11. Have authority to secure and administer the benefits of the
21 National School Lunch Act, Public Law 396 of the 79th Congress of
22 the United States, in the State of Oklahoma and is hereby authorized
23 to employ or appoint and fix the compensation of such additional
24 officers or employees and to incur such expenses as may be necessary

1 for the accomplishment of the above purpose, administer the
2 distribution of any state funds appropriated by the Legislature
3 required as federal matching to reimburse on children's meals;

4 12. Accept and provide for the administration of any land,
5 money, buildings, gifts, donation or other things of value which may
6 be offered or bequeathed to the schools under the supervision or
7 control of said Board;

8 13. Have authority to require persons having administrative
9 control of all school districts in Oklahoma to make such regular and
10 special reports regarding the activities of the schools in said
11 districts as the Board may deem needful for the proper exercise of
12 its duties and functions. Such authority shall include the right of
13 the State Board of Education to withhold all state funds under its
14 control, to withhold official recognition, including accrediting,
15 until such required reports have been filed and accepted in the
16 office of said Board and to revoke the certificates of persons
17 failing or refusing to make such reports;

18 14. Have general supervision of the school lunch program. The
19 State Board of Education may sponsor workshops for personnel and
20 participants in the school lunch program and may develop, print and
21 distribute free of charge or sell any materials, books and bulletins
22 to be used in such school lunch programs. There is hereby created
23 in the State Treasury a revolving fund for the Board, to be
24 designated the School Lunch Workshop Revolving Fund. The fund shall

1 consist of all fees derived from or on behalf of any participant in
2 any such workshop sponsored by the State Board of Education, or from
3 the sale of any materials, books and bulletins, and such funds shall
4 be disbursed for expenses of such workshops and for developing,
5 printing and distributing of such materials, books and bulletins
6 relating to the school lunch program. The fund shall be
7 administered in accordance with Section 155 of Title 62 of the
8 Oklahoma Statutes;

9 15. Prescribe all forms for school district and county officers
10 to report to the State Board of Education where required. The State
11 Board of Education shall also prescribe a list of appropriation
12 accounts by which the funds of school districts shall be budgeted,
13 accounted for and expended; and it shall be the duty of the State
14 Auditor and Inspector in prescribing all budgeting, accounting and
15 reporting forms for school funds to conform to such lists;

16 16. Provide for the establishment of a uniform system of pupil
17 and personnel accounting, records and reports;

18 17. Have authority to provide for the health and safety of
19 school children and school personnel while under the jurisdiction of
20 school authorities;

21 18. Provide for the supervision of the transportation of
22 pupils;

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1 19. Have authority, upon request of the local school board, to
2 act in behalf of the public schools of the state in the purchase of
3 transportation equipment;

4 20. Have authority and is hereby required to perform all duties
5 necessary to the administration of the public school system in
6 Oklahoma as specified in the Oklahoma School Code; and, in addition
7 thereto, those duties not specifically mentioned herein if not
8 delegated by law to any other agency or official;

9 21. Administer the State Public Common School Building
10 Equalization Fund established by Section 32 of Article X of the
11 Oklahoma Constitution. Any monies as may be appropriated or
12 designated by the Legislature, other than ad valorem taxes, any
13 other funds identified by the State Department of Education, which
14 may include, but not be limited to, grants-in-aid from the federal
15 government for building purposes, the proceeds of all property that
16 shall fall to the state by escheat, penalties for unlawful holding
17 of real estate by corporations, and capital gains on assets of the
18 permanent school funds, shall be deposited in the State Public
19 Common School Building Equalization Fund. The fund shall be used to
20 aid school districts and charter schools in acquiring buildings,
21 subject to the limitations fixed by Section 32 of Article X of the
22 Oklahoma Constitution. It is hereby declared that the term
23 "acquiring buildings" as used in Section 32 of Article X of the
24 Oklahoma Constitution shall mean acquiring or improving school

1 sites, constructing, repairing, remodeling or equipping buildings,
2 or acquiring school furniture, fixtures, or equipment. For charter
3 schools, the fund shall only be used to acquire buildings in which
4 students enrolled in the charter school will be attending. It is
5 hereby declared that the term "school districts" as used in Section
6 32 of Article X of the Oklahoma Constitution shall mean school
7 districts and charter schools created pursuant to the provisions of
8 the Oklahoma Charter Schools Act. If sufficient monies are
9 available in the fund, the Board shall solicit proposals for grants
10 from school districts and charter schools and shall determine the
11 process for consideration of proposals. Grants shall be awarded
12 only to school districts which have a total assessed property
13 valuation per average daily membership that is less than the state
14 average total assessed property valuation per average daily
15 membership and, at the time of application, the district has voted
16 the five-mill building fund levy authorized in Section 10 of Article
17 X of the Oklahoma Constitution, and has voted indebtedness through
18 the issuance of new bonds for at least fifty percent (50%) within
19 the last three (3) years of the maximum allowable pursuant to the
20 provisions of Section 26 of Article X of the Oklahoma Constitution
21 as shown on the school district budget filed with the State Board of
22 Equalization for the current school year and certifications by the
23 Attorney General prior to April 1 of the school year. Grants shall
24 be awarded only to charter schools which have secured matching funds

1 for the specific purpose of acquiring buildings in an amount of not
2 less than ten percent (10%) of the total grant amount. The amount
3 of each grant awarded by the Board each year shall not exceed Four
4 Million Dollars (\$4,000,000.00). From the total amount available to
5 provide grants to public schools and charter schools, charter
6 schools shall be allocated the greater of ten percent (10%) of the
7 total amount or the percent of students enrolled in charter schools
8 that are not sponsored by the Statewide Virtual Charter School Board
9 as compared to the student enrollment in school districts which have
10 a total assessed property valuation per average daily membership
11 that is equal to or less than twenty-five percent (25%) of the state
12 total assessed property valuation per average daily membership. The
13 Board shall give priority consideration to school districts which
14 have a total assessed property valuation per average daily
15 membership that is equal to or less than twenty-five percent (25%)
16 of the state average total assessed property valuation per average
17 daily membership. The Board is authorized to prorate grants awarded
18 if monies are not sufficient in the fund to award grants to
19 qualified districts and charter schools. The State Board of
20 Education shall make available to eligible charter schools any
21 unused grant funds that remain after the initial allocation to all
22 eligible public school districts and charter schools of this state.
23 The State Board of Education shall prescribe rules for making grants
24 of aid from, and for otherwise administering, the fund pursuant to

1 the provisions of this paragraph, and may employ and fix the duties
2 and compensation of technicians, aides, clerks, stenographers,
3 attorneys and other personnel deemed necessary to carry out the
4 provisions of this paragraph. The cost of administering the fund
5 shall be paid from monies appropriated to the State Board of
6 Education for the operation of the State Department of Education;

7 22. Recognize that the Director of the Oklahoma Department of
8 Corrections shall be the administrative authority for the schools
9 which are maintained in the state reformatories and shall appoint
10 the principals and teachers in such schools. Provided, that rules
11 of the State Board of Education for the classification, inspection
12 and accreditation of public schools shall be applicable to such
13 schools; and such schools shall comply with standards set by the
14 State Board of Education; ~~and~~

15 23. Have authority to administer a revolving fund which is
16 hereby created in the State Treasury, to be designated the
17 Statistical Services Revolving Fund. The fund shall consist of all
18 monies received from the various school districts of the state, the
19 United States Government, and other sources for the purpose of
20 furnishing or financing statistical services and for any other
21 purpose as designated by the Legislature. The State Board of
22 Education is hereby authorized to enter into agreements with school
23 districts, municipalities, the United States Government, foundations
24 and other agencies or individuals for services, programs or research

1 projects. The Statistical Services Revolving Fund shall be
2 administered in accordance with Section 155 of Title 62 of the
3 Oklahoma Statutes; and

4 24. Have the authority to conduct investigations necessary to
5 implement the provisions of this title.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 3-104.9 of Title 70, unless
8 there is created a duplication in numbering, reads as follows:

9 The State Board of Education shall promulgate rules necessary to
10 implement the provisions of this act.

11 SECTION 4. REPEALER 70 O.S. 2011, Section 3-104.1 is
12 hereby repealed.

13 ~~SECTION 5. This act shall become effective July 1, 2015.~~

14 ~~SECTION 6. It being immediately necessary for the preservation~~
15 ~~of the public peace, health and safety, an emergency is hereby~~
16 ~~declared to exist, by reason whereof this act shall take effect and~~
17 ~~be in full force from and after its passage and approval.~~

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1 Passed the Senate the 11th day of March, 2015.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2015.

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8 _____
9 Presiding Officer of the House
10 of Representatives