

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2704

BY DELEGATES ESPINOSA, STATLER, DEAN, ROHRBACH,
WILSON, ROWAN, HARSHBARGER, R. ROMINE, WAGNER,
COOPER AND HIGGINBOTHAM

[Passed April 8, 2017; in effect ninety days from passage.]

1 AN ACT to amend and reenact §18A-3-6 and §18A-3-10 of the Code of West Virginia, 1931, as
2 amended, all relating generally to the licensure or certification of teachers; providing for
3 the automatic revocation of a certificate or license for a teacher convicted of an offense
4 under chapter sixty-one, article eight-d, section five of the code; and permitting the West
5 Virginia Department of Education to require that a licensee be fingerprinted for analysis
6 by the West Virginia State Police for a state criminal history record check through the
7 central abuse registry and by the Federal Bureau of Investigation for a national criminal
8 history record check, when the licensee has lived outside of the state for one year or more
9 since licensure, or when the department or school administrator reasonably believes the
10 licensee has not disclosed a felony conviction, a conviction of an offense under chapter
11 sixty-one, article eight-b of this code, or a conviction of an offense similar to those in
12 chapter sixty-one, article eight-b of this code that have been established under the laws
13 of any other state or the United States.

Be it enacted by the Legislature of West Virginia:

1 That §18A-3-6 and §18A-3-10 of the Code of West Virginia, 1931, as amended, be
2 amended and reenacted to read as follows:

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.

§18A-3-6. Grounds for revocation of certificates; recalling certificates for correction.

1 (a) The state superintendent may, after ten days' notice and upon proper evidence,
2 revoke the certificates of any teacher for any of the following causes: Intemperance;
3 untruthfulness; cruelty; immorality; the conviction of a felony or a guilty plea or a plea of no contest
4 to a felony charge; the conviction, guilty plea or plea of no contest to any charge involving sexual
5 misconduct with a minor or a student; or for using fraudulent, unapproved or insufficient credit to

6 obtain the certificates: *Provided*, That the certificates of a teacher may not be revoked for any
7 matter for which the teacher was disciplined, less than dismissal, by the county board that
8 employs the teacher, nor for which the teacher is meeting or has met an improvement plan
9 determined by the county board, unless it can be proven by clear and convincing evidence that
10 the teacher has committed one of the offenses listed in this subsection and his or her actions
11 render him or her unfit to teach: *Provided, however*, That in order for any conduct of a teacher
12 involving intemperance; cruelty; immorality; or using fraudulent, unapproved or insufficient credit
13 to obtain the certificates to constitute grounds for the revocation of the certificates of the teacher,
14 there must be a rational nexus between the conduct of the teacher and the performance of his or
15 her job. The state superintendent may designate the West Virginia commission for professional
16 teaching standards or members thereof to conduct hearings on revocations or certificate denials
17 and make recommendations for action by the state superintendent: *Provided further*, That a
18 teacher convicted under chapter sixty-one, article eight-d, section five shall have his or her
19 certificate or license automatically revoked.

20 (b) It shall be the duty of any county superintendent who knows of any acts on the part of
21 any teacher for which a certificate may be revoked in accordance with this section to report the
22 same, together with all the facts and evidence, to the state superintendent for such action as in
23 the state superintendent's judgment may be proper.

24 (c) If a certificate has been granted through an error, oversight, or misinformation, the
25 state superintendent has authority to recall the certificate and make such corrections as will
26 conform to the requirements of law and the state board.

§18A-3-10. Criminal history check of applicants for licensure by the state Department of Education.

1 (a) Any applicant for an initial license issued by the West Virginia Department of Education
2 shall be fingerprinted by the West Virginia State Police in accordance with state board policy in
3 order to determine the applicant's suitability for licensure. The fingerprints shall be analyzed by

4 the State Police for a state criminal history record check through the central abuse registry and
5 then forwarded to the Federal Bureau of Investigation for a national criminal history record check.

6 (b) Information contained in either the central abuse registry record or the Federal Bureau
7 of Investigation record may form the basis for the denial of a certificate for just cause.

8 (c) The applicant for initial certification pays for the cost of obtaining the central abuse
9 registry record and the Federal Bureau of Investigation record.

10 (d) Upon written consent to the state department by the applicant and within ninety days
11 of the state fingerprint analysis, the results of a state analysis may be provided to a county board
12 with which the applicant is applying for employment without further cost to the applicant.

13 (e) Information maintained by the state department or a county board which was obtained
14 for the purpose of this section is exempt from the disclosure provisions of chapter twenty-nine-b
15 of this code. Nothing in this section prohibits disclosure or publication of information in a statistical
16 or other form which does not identify the individuals involved or provide personal information.

17 (f) After an initial license has been issued by the West Virginia Department of Education,
18 the West Virginia Department of Education may require any licensee to be fingerprinted by the
19 West Virginia State Police in accordance with state board policy: *Provided*, That the licensee lived
20 outside of the State of West Virginia for a period of one year or more since his or her licensure,
21 or the West Virginia Department of Education or the school administrator has a reasonable belief
22 that the licensee has not notified the school administrator of any felony conviction, conviction of
23 any offense under chapter sixty-one, article eight-b of this code, or offenses of similar nature to
24 those in chapter sixty-one, article eight-b of this code that have been established under any other
25 state or the United States. The fingerprints may be analyzed by the West Virginia State Police for
26 a state criminal history record check through the central abuse registry and then forwarded to the
27 Federal Bureau of Investigation for a national criminal history record check.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2017.

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Governor