

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

House Bill 2704

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

[Introduced February 25, 2017; Referred to the
Committee on the Education then to the Judiciary]

1 A BILL to amend and reenact §18A-3-6 and §18A-3-10 of the Code of West Virginia, 1931,
2 as amended, all relating generally to the licensure or certification of teachers, providing that a
3 teacher convicted under chapter sixty-one, article eight-d, section five shall have his or her
4 certificate or license automatically revoked and permitting the West Virginia Department of
5 Education to require a licensee submit to fingerprints that may be analyzed by the State Police
6 for a state criminal history record check through the central abuse registry and then forwarded to
7 the federal bureau of investigation for a national criminal history record check when the licensee
8 has lived outside of the state of West Virginia for a period of one year or more since his or her
9 licensure, or the West Virginia Department of Education or the school administrator has a
10 reasonable belief that the licensee has not notified the school administrator of any felony
11 conviction, conviction of any offense under chapter sixty-one, article eight-b of this Code, or
12 offenses of similar nature to those in chapter sixty-one, article eight-b of this Code that have been
13 established under 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) Beginning January 1, 2002, any applicant for an initial license issued by the West
2 Virginia Department of Education shall be fingerprinted by the West Virginia state police in
3 accordance with state board policy in order to determine the applicant's suitability for licensure.

4 The fingerprints shall be analyzed by the State Police for a state criminal history record check
5 through the central abuse registry and then forwarded to the federal bureau of investigation for a
6 national criminal history record check.

7 (b) Information contained in either the central abuse registry record or the federal bureau
8 of investigation record may form the basis for the denial of a certificate for just cause.

9 (c) The applicant for initial certification pays for the cost of obtaining the central abuse
10 registry record and the federal bureau of investigation record.

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

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

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