WEST virginia legislature

2022 regular session

Introduced

Senate Bill 535

By Senators Blair (Mr. President) and Baldwin  
(By Request of the Executive)

[Introduced February 01, 2022; referred   
to the Committee on the Judiciary]

A BILL to amend and reenact §18A-3-6 of the Code of West Virginia, 1931, as amended, relating to revocation of school personnel certification or licensure; including personnel licensed under §18A-3-2a of this code; and providing that licensure or certification may be revoked upon a finding of abuse by the West Virginia Department of Health and Human Resources.

Be it enacted by the Legislature of West Virginia:

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

§18A-3-6. Grounds for revocation or suspension of certificates; other authorized actions by state superintendent; required reporting by county superintendents; and recalling certificates for correction.

(a) The State Superintendent may, after 10 days’ notice and upon proper evidence, revoke or suspend the certificates of any teacher for any of the following causes: Intemperance; untruthfulness; cruelty; immorality; the conviction of a felony or a guilty plea or a plea of no contest to a felony charge; the conviction, guilty plea or plea of no contest to any charge involving sexual misconduct with a minor or a student; or for using fraudulent, unapproved or insufficient credit to obtain the certificates: *Provided,* That in order for any conduct of a teacher involving intemperance; cruelty; immorality; or using fraudulent, unapproved or insufficient credit to obtain the certificates to constitute grounds for the revocation of the certificates of the teacher, there must be a rational nexus between the conduct of the teacher and the performance of his or her job. The State Superintendent shall also have the authority to limit certificates, issue letters of admonishment, or enter into consent agreements requiring specific training in order for a teacher to maintain a certificate. The State Superintendent may designate the West Virginia commission for professional teaching standards or members thereof to conduct hearings on revocations or certificate denials and make recommendations for action by the State Superintendent. The State Superintendent may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person subject to licensure by the State Superintendent.

(b) A teacher, as defined by West Virginia Code §18-1-1(g) of this code, or any individual holding a license granted pursuant to §18A-3-2a of this code who pleads guilty to or is convicted under §61-8D-3 or §61-8D-5 of this code or comparable statute in any other state, pleads guilty to or is convicted of any criminal offense that requires the teacher to register as a sex offender, or any criminal offense which has as an element delivery or distribution of a controlled substance, ~~or~~ pleads guilty to or is convicted under the provisions of §61-2-1 of this code or has been so convicted under any law of the United States or any other state for an offense which has the same elements as those offenses described in §61-2-1 of this code, or against whom there is a finding of abuse by the Department of Health and Human Resources in accordance with §49-1-1 *et seq.* of this code shall have his or her certificate or license automatically revoked. Should the conviction resulting in automatic revocation pursuant to this section be overturned by any Court of this State or the United States, the teacher’s certification shall be reinstated unless otherwise prohibited by law.

(c) A teacher, as defined by §18-1-1(g) of this code, and including any individual holding a license granted pursuant to §18A-3-2a of this code, shall maintain a professional relationship with all students at all times, both in and out of the classroom. Following a hearing as provided in subsection (a) of this section, any teacher found to have committed any act of sexual abuse of a student or minor or to have engaged in inappropriate sexual conduct with a student or minor; committed an act of cruelty to children or an act of child endangerment or solicited, encouraged, engaged in or consummated an inappropriate relationship with any student, minor, or individual; exploited a student by engaging in any of the aforementioned illegal or inappropriate conduct which then escalated into a relationship with the exploited student within 12 months of that student’s graduation; or engaged in grooming a student or minor shall have his or her license revoked for a period of time not less than five years. For the purposes of this subsection, “grooming a student or minor” means befriending and establishing an emotional connection with a student or minor, which may include the family of the student or minor, to lower the student’s or minor’s inhibitions with the objective of committing sexual abuse, child trafficking, child prostitution, the production of child pornography, or any other offense for which a license shall be revoked under this subsection.

(d) Any county superintendent, public school principal, or public charter school administrator who knows of any acts on the part of any teacher for which a certificate may be revoked or for which other action may be taken in accordance with this section shall report this, together with all the facts and evidence, to the State Superintendent for such action as in the State Superintendent’s judgment may be proper.

(e) If a certificate has been granted through an error, oversight, or misinformation, the State Superintendent may recall the certificate and make such corrections as will conform to the requirements of law and the state board.

(f) The state superintendent shall maintain a public database of individuals who have had adverse action taken against their teaching certificate by the state superintendent. Individuals whose certificate has been revoked by the state superintendent are not eligible to be employed by a county board unless the individual’s certificate is subsequently reinstated by the state superintendent.

(g) This section applies to all public school teachers whether employed by a county board or the governing board of a public charter school.

(h) The state superintendent shall periodically ensure that county boards are acting in compliance with this section.

(i) The state board may propose legislative rules pursuant to §29A-3B-1 *et seq.* of this code that are necessary to implement the provisions of this section.

NOTE: The purpose of this bill is to provide for revocation of certain licenses and certifications upon conviction of certain crimes or a finding of abuse by the West Virginia Department of Health and Human Resources.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.