

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]

1 A BILL to amend and reenact §18A-3-6 of the Code of West Virginia, 1931, as amended, relating
 2 to revocation of school personnel certification or licensure; including personnel licensed
 3 under §18A-3-2a of this code; and providing that licensure or certification may be revoked
 4 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.**

1 (a) The State Superintendent may, after 10 days' notice and upon proper evidence, revoke
 2 or suspend 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 in order for any conduct of a teacher involving
 7 intemperance; cruelty; immorality; or using fraudulent, unapproved or insufficient credit to obtain
 8 the certificates to constitute grounds for the revocation of the certificates of the teacher, there
 9 must be a rational nexus between the conduct of the teacher and the performance of his or her
 10 job. The State Superintendent shall also have the authority to limit certificates, issue letters of
 11 admonishment, or enter into consent agreements requiring specific training in order for a teacher
 12 to maintain a certificate. The State Superintendent may designate the West Virginia commission
 13 for professional teaching standards or members thereof to conduct hearings on revocations or
 14 certificate denials and make recommendations for action by the State Superintendent. The State
 15 Superintendent may issue subpoenas and subpoenas duces tecum to obtain testimony and

16 documents to aid in the investigation of allegations against any person subject to licensure by the
17 State Superintendent.

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

31 (c) A teacher, as defined by §18-1-1(g) of this code, and including any individual holding
32 a license granted pursuant to §18A-3-2a of this code, shall maintain a professional relationship
33 with all students at all times, both in and out of the classroom. Following a hearing as provided in
34 subsection (a) of this section, any teacher found to have committed any act of sexual abuse of a
35 student or minor or to have engaged in inappropriate sexual conduct with a student or minor;
36 committed an act of cruelty to children or an act of child endangerment or solicited, encouraged,
37 engaged in or consummated an inappropriate relationship with any student, minor, or individual;
38 exploited a student by engaging in any of the aforementioned illegal or inappropriate conduct
39 which then escalated into a relationship with the exploited student within 12 months of that
40 student's graduation; or engaged in grooming a student or minor shall have his or her license
41 revoked for a period of time not less than five years. For the purposes of this subsection,

42 “grooming a student or minor” means befriending and establishing an emotional connection with
43 a student or minor, which may include the family of the student or minor, to lower the student’s or
44 minor’s inhibitions with the objective of committing sexual abuse, child trafficking, child
45 prostitution, the production of child pornography, or any other offense for which a license shall be
46 revoked under this subsection.

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

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

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

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

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

64 (i) The state board may propose legislative rules pursuant to §29A-3B-1 *et seq.* of this
65 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.