

FIRST REGULAR SESSION

HOUSE BILL NO. 81

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES RELFORD, RANSALL,
DAVIS AND SEIGFREID (Co-sponsors).

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ANNE C. WALKER, Chief Clerk

0555L.011

AN ACT

To repeal sections 168.021 and 168.071, RSMo 2000, relating to teacher certificates of license, and to enact in lieu thereof seven new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 168.021 and 168.071, RSMo 2000, are repealed and seven new sections enacted in lieu thereof, to be known as sections 161.229, 161.231, 168.021, 168.071, 168.073, 168.075 and 168.077, to read as follows:

161.229. In all matters arising pursuant to its authority pursuant to chapters 160 to 171, RSMo, the department is entitled to the attorney-client privilege and work-product privilege to the same extent as any other person.

161.231. 1. The commissioner of the department of elementary and secondary education may administer oaths, subpoena witnesses, issue subpoenas duces tecum and require production of documents and records. Subpoenas, including subpoena duces tecum, issued pursuant to this section shall be served by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the department may require sworn copies of such documents to be filed with it or delivered to its designated representative.

2. The department may enforce its subpoenas, including subpoena duces tecum, by applying to the circuit court of Cole County, the county of the investigation, hearing or

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

11 **proceeding or any county where the person resides or may be found, for an order upon any**
12 **person who shall fail to obey a subpoena to show cause why such subpoena should not be**
13 **enforced. The order and a copy of the application for the order shall be served upon the**
14 **person in the same manner as a summons in a civil action. If the circuit court shall, after**
15 **a hearing, determine that the subpoena should be sustained and enforced, such court shall**
16 **proceed to enforce the subpoena in the same manner as though the subpoena had been**
17 **issued in a civil case in the circuit court.**

168.021. 1. Certificates of license to teach in the public schools of the state shall be
2 granted as follows:

3 (1) By the state board, [under] **pursuant to** rules and regulations prescribed by it[,]:

4 (a) Upon the basis of college credit;

5 (b) Upon the basis of examination; **and**

6 **(c) Upon completion of a background check;**

7 (2) By the state board, [under] **pursuant to** rules and regulations prescribed by the state
8 board with advice from the advisory council established by section 168.015 to any individual
9 who presents to the state board a valid doctor of philosophy degree from an accredited institution
10 of higher education accredited by a regional accrediting association such as North Central
11 Association. Such certificate shall be limited to the major area of postgraduate study of the
12 holder, shall be issued only after **both** successful completion of the examination required for
13 graduation pursuant to section 168.033 if appropriate **and successful completion of a**
14 **background check**, and shall be restricted to those certificates established pursuant to
15 subdivisions (1) and (2) of subsection 4 of this section; or

16 (3) By the state board, which shall issue the professional certificate classification in both
17 the general and specialized areas most closely aligned with the current areas of certification
18 approved by the state board, commensurate with the years of teaching experience of the
19 applicant, and based upon the following criteria:

20 (a) Recommendation of a state-approved baccalaureate-level teacher preparation
21 program;

22 (b) Successful attainment of the Missouri qualifying score on the exit assessment for
23 teachers or administrators designated by the state board of education. Applicants who have not
24 successfully achieved a qualifying score on the designated examinations will be issued a
25 two-year nonrenewable provisional certificate; and

26 (c) Upon completion of a background check and possession of a valid teaching certificate
27 [in the state from which the applicant's teacher preparation program was completed].

28 2. All valid teaching certificates issued pursuant to law or state board policies and
29 regulations prior to September 1, 1988, shall continue in effect until they expire, are revoked or

30 suspended, as provided by law. [When such certificates are required to be renewed, the state
31 board or its designee shall grant to each holder of such a certificate the certificate most nearly
32 equivalent to the one so held.]

33 3. Any teacher holding a third class county certificate in the state during the 1972-73
34 school year shall upon his **or her** written request be given an examination by a person designated
35 by the state commissioner of education to determine his **or her** eligibility to be granted a
36 certificate of license to teach. The examination shall be comparable to those given by county
37 superintendents to eligible applicants prior to July 1, 1974. Upon successful completion of the
38 examination the applicant shall be issued a certificate by the state board of education entitling
39 the holder to teach in the public schools of the state for a period of three years. A request for
40 such examination must be presented to the commissioner of education on or before March first
41 of the year in which the examination is to be administered. The commissioner of education shall
42 cause the examination to be administered and the certificate issued to those successfully
43 completing it prior to April first of the year in which the application for the examination was
44 received.

45 4. [After September 1, 1988,] Certificates of license to teach in the public schools of the
46 state shall be based upon minimum requirements prescribed by the state board of education
47 which shall provide for levels of certification including, but not limited to, an initial professional
48 certificate and culminating with a continuous professional certificate:

49 (1) The initial professional certificate shall be issued upon completion of requirements
50 established by the state board of education and shall be valid based upon verification of actual
51 teaching within a specified time period established by the state board of education;

52 (2) One or more levels of renewable professional certificates shall be issued upon
53 verification of completion of criteria established by the state board of education;

54 (3) The continuous professional certificate shall be issued upon verification of
55 completion of criteria, which shall not exceed a master's degree or its equivalent and ten years'
56 employment in an educational position, established by the state board of education. The
57 continuous professional certificate shall be continuous based upon verification of actual
58 employment in an educational position as provided for in state board guidelines.

59 5. Policies and procedures shall be established by which a teacher who was not retained
60 due to a reduction in force may retain the current level of certification. There shall also be
61 established policies and procedures for a teacher who has not been employed in an educational
62 position for three years or more for reasons other than reduction in force.

63 6. The state board shall establish policies by which [residents of states] **individuals who**
64 **have completed a four-year baccalaureate degree or higher-level state approved teacher**
65 **preparation program from a state** other than the state of Missouri may be assessed a fee for

66 a certificate license to teach in the public schools of Missouri. Such fee shall be in an amount
67 sufficient to recover any or all costs associated with the issuing of a certificate of license to teach.

68 7. Any member of the public school retirement system of Missouri who entered covered
69 employment with ten or more years of educational experience in another state or states and held
70 a certificate issued by another state and subsequently worked in a school district covered by the
71 public school retirement system of Missouri for ten or more years who later became certificated
72 in Missouri shall have that certificate dated back to his or* her original date of employment in
73 a Missouri public school.

168.071. 1. [The Missouri state board of education may refuse to issue or renew, or may
2 suspend or revoke a certificate of license to teach upon satisfactory proof of incompetency,
3 cruelty, immorality, drunkenness, neglect of duty, or the annulling of a written contract for
4 reasons other than election to the general assembly, with the local board of education without
5 the consent of the majority of the members of the board which is a party to the contract. Charges
6 may be filed by any school district or, at the request of the school district, by the office of the
7 attorney general if the school district has been identified as financially stressed pursuant to
8 section 161.520, RSMo. If the underlying conduct or actions which are the basis for charges
9 filed under this subsection are also the subject of a pending criminal charge against the person
10 holding such certificate, and that person requests in writing a delayed hearing on advice of
11 counsel under the fifth amendment of the Constitution of the United States, no hearing shall be
12 held until after final disposition of the criminal charge.

13 2. The state board of education may refuse to issue or renew, or may, upon hearing,
14 suspend or revoke a certificate of license to teach if a certificate holder or applicant for a
15 certificate has pleaded to or been found guilty of a felony or crime involving moral turpitude
16 under the laws of this state or any other state or of the United States, or any other country,
17 whether or not the sentence is imposed.] **Except as provided in subsection 3 of this section,**
18 **the state board of education may refuse to issue or renew, or may, upon a hearing as set**
19 **forth in rules promulgated by the board, suspend, discipline or revoke, a certificate of**
20 **license to teach if the certificate holder has:**

21 (1) **Pleaded to, or been found guilty of, a felony or crime involving moral turpitude**
22 **pursuant to the laws of this state, any other state, the United States or any other country,**
23 **whether or not sentence is imposed;**

24 (2) **Used fraud, deception, misrepresentation or bribery in securing any certificate**
25 **of license to teach issued pursuant to this chapter;**

26 (3) **Been subject to any revocation, suspension or disciplinary action against his or**
27 **her certificate of license to teach as granted by another state, territory, federal agency or**
28 **country; provided that the grounds for such revocation, suspension or disciplinary action**

29 are also authorized in this chapter;

30 (4) Engaged in acts of incompetency, cruelty, immorality, drunkenness or neglect
31 of duty;

32 (5) Violated a professional trust or confidence; or

33 (6) For reasons other than election to the general assembly, annulled a written
34 contract with a local school board without the consent of the majority of the board as party
35 to such contract.

36 2. Charges may be filed by the state board of education or by any school district for
37 any of the causes listed in subsection 1 of this section. The charges filed with the state
38 board of education pursuant to this section shall be in writing and shall plainly and fully
39 specify the basis for the charges. If brought by a school district, the charges shall be signed
40 by the chief administrative officer of the district or by the president of the school board
41 when so authorized by the majority of the board. The certificate holder shall be given not
42 less than thirty days' notice of the hearing and shall be given an opportunity to be heard,
43 together with witnesses. If the underlying conduct or actions which are the basis for the
44 charges filed pursuant to this subsection are also the subject of a pending criminal charge
45 against the person holding such certificate, and if such person requests in writing a delayed
46 hearing on advice of counsel pursuant to the fifth amendment of the Constitution of the
47 United States, no hearing shall be held until after final disposition of the criminal charge.

48 3. Upon notice by certified mail, return receipt requested or, if notice by certified
49 mail is unsuccessful, upon notice by first class mail, to the last known address of the
50 certificate holder, the certificate of license to teach shall be revoked or, in the case of an
51 applicant, a certificate shall not be issued, if the certificate holder or applicant has pleaded guilty
52 to or been found guilty of any of the following offenses established pursuant to Missouri law or
53 offenses of a similar nature established [under] pursuant to the laws of any other state or of the
54 United States, or any other country, whether or not the sentence is imposed:

55 (1) Any dangerous felony as defined in section 556.061, RSMo, or murder in the first
56 degree;

57 (2) Any of the following sexual offenses: rape; statutory rape in the first degree;
58 statutory rape in the second degree; sexual assault; forcible sodomy; statutory sodomy in the first
59 degree; statutory sodomy in the second degree; child molestation in the first degree; child
60 molestation in the second degree; deviate sexual assault; sexual misconduct involving a child;
61 sexual misconduct in the first degree; or sexual abuse;

62 (3) Any of the following offenses against the family and related offenses: incest;
63 abandonment of child in the first degree; abandonment of child in the second degree;
64 endangering the welfare of a child in the first degree; abuse of a child; child used in a sexual

65 performance; promoting sexual performance by a child; or trafficking in children; and

66 (4) Any of the following offenses involving child pornography and related offenses:
67 promoting obscenity in the first degree; promoting child pornography in the first degree;
68 promoting obscenity in the second degree when the penalty is enhanced to a class D felony;
69 promoting child pornography in the second degree; possession of child pornography **in the first**
70 **degree; possession of child pornography in the second degree; furnishing child**
71 **pornography to a minor**; furnishing pornographic materials to minors; **or** coercing acceptance
72 of obscene material[; or sale or rental to persons under seventeen].

73 4. **In the case of any certificate holder who has surrendered or failed to renew his**
74 **or her certificate of licensure to teach, the state board of education may refuse to issue or**
75 **renew, or may suspend or revoke, such certificate for any of the reasons contained in this**
76 **section.**

77 5. The certificate holder whose certificate was revoked pursuant to subsection 3 of this
78 section may appeal such revocation to the state board of education. The certificate holder whose
79 certificate has been revoked pursuant to subsection 3 of this section must notify the
80 commissioner of education of the intent to appeal by advising the commissioner within thirty
81 days of [the certificate holder's plea of guilty or finding of guilt of the intent to appeal] **notice**
82 **of the revocation described in subsection 3 of this section.** Failure of the certificate holder
83 to notify the commissioner of the intent to appeal waives all rights to appeal said revocation.
84 Upon notice of the certificate holder's intent to appeal, an appeal hearing shall be held by a
85 hearing officer designated by the commissioner of education, with the final decision made by the
86 state board of education, based upon the record of that hearing. The certificate holder shall be
87 given not less than thirty days' notice of the hearing, and an opportunity to be heard by the
88 hearing officer, together with witnesses. In those cases where the plea of guilty to or finding of
89 guilt of any of the offenses listed in subsection 3 of this section [involve] **involves** a minor child,
90 testimony from the minor child involved in the complaint shall not be required. The hearing
91 officer shall accept into the record the transcript of any testimony of a child involved in such
92 offense if such testimony was admitted in any court hearing. Subsection [6] **7** of this section
93 shall apply to any final decision made by the state board of education pursuant to this subsection.

94 [5. The charges filed with the state board of education under this section shall be in
95 writing and plainly and fully specify the basis for the charges. The charges shall be signed by
96 the chief administrative officer of the district or by the president of the board of education when
97 so authorized by a majority of the board. The certificate holder shall be given not less than thirty
98 days' notice of the hearing, and an opportunity to be heard, together with witnesses.

99 6. The certificate holder may appeal to the circuit court at any time within thirty days
100 after receipt of the final decision of the state board of education. The appeal shall be heard with

101 a jury at the option of either the certificate holder or the party filing the charges, and shall be tried
102 de novo, affirming or denying the action of the state board of education. Costs shall be taxed
103 against the appellant if the judgment of the state board of education is affirmed. In those cases
104 where the charges allege immorality by the certificate holder involving a minor child, such case
105 shall be heard by the court without a jury and any testimony from the minor child involved in the
106 complaint shall be taken directly from the hearing record taken on behalf of the state board of
107 education.]

108 **6. Contested cases and other matters involving certificate holders, licensees or**
109 **applicants pursuant to this section may be informally resolved by consent agreement,**
110 **agreed settlement or voluntary surrender of the certificate or license pursuant to the rules**
111 **promulgated by the state board of education.**

112 **7. The final decision of the state board of education is subject to judicial review**
113 **pursuant to sections 536.100 to 536.140, RSMo.**

114 [7.] **8. The issuance of a certificate of license to teach to an individual who has been**
115 **convicted of a felony or crime involving moral turpitude, whether or not the sentence is**
116 **imposed, shall be issued only upon motion of the state board of education adopted by a**
117 **unanimous affirmative vote of those members present and voting.**

168.073. 1. If an employee or school board member has direct knowledge that a
2 **certificate holder has been charged with, pled guilty to or been found guilty of any felony**
3 **or of any other crime or misdemeanor involving any of the acts described in subsection 1**
4 **or subsection 3 of section 168.071, established pursuant to the laws of this state, any other**
5 **state, the United States or any other country, whether or not the sentence is imposed, that**
6 **employee or school board member shall report such act of such certificate holder to the**
7 **district superintendent. Upon receiving a report of such act the superintendent shall notify**
8 **the department of elementary and secondary education of such act.**

9 **2. If a local board of education has a written policy that substantially complies with**
10 **the provisions of subsection 1 of this section, then any employee or school board member**
11 **who follows that written policy shall be deemed to have complied with the provisions of**
12 **subsection 1 of this section.**

13 **3. Any employee or school board member acting in conformity with either the**
14 **provisions of subsection 1 of this section or any substantially complying policy pursuant**
15 **to subsection 2 of this section shall not be civilly liable for any such conforming action.**

16 **4. Any employee, school board member or superintendent who fails to report any**
17 **of the offenses listed in subsection 1 of this section to the appropriate local law enforcement**
18 **agency shall be guilty of a class A misdemeanor.**

168.075. 1. The school district shall ensure that a national criminal history

2 background check, including fingerprint, is conducted for each pupil contact individual
3 of a school district prior to the individual having contact with any pupil. For purposes of
4 this section, "pupil contact individual" shall include, but is not limited to, administrators,
5 teachers, aides, paraprofessionals, assistants, secretaries, custodians, cooks, nurses, school
6 bus drivers and volunteers. The department shall promulgate rules for subsequent
7 criminal history background checks.

8 2. No rule or portion of a rule promulgated pursuant to this section shall take effect
9 unless such rule has been promulgated pursuant to chapter 538, RSMo.

168.077. 1. All educational transcripts, test scores, complaints, investigatory
2 reports and information pertaining to any person who is an applicant, certificate holder
3 or licensee of the department are confidential and may not be disclosed to the public or any
4 member of the public, except with the written consent of the person whose records are
5 involved or the school district where the individual is currently employed or was employed
6 at the time of the incident which gave rise to the investigation; provided that, the
7 department may disclose confidential information without consent of the person involved
8 in the course of voluntary interstate exchange of information, in the course of any litigation
9 concerning that person, pursuant to a lawful request, or to school districts or other
10 administrative or law enforcement agencies acting within the scope of their statutory
11 authority. Information regarding identity, including name and address, registration and
12 currency of the license or certificate of the person and the name and address of an
13 applicant for such certificate or license is not confidential information.

14 2. Notwithstanding any other provision of the law to the contrary, no complaint,
15 investigatory report or information received from any source may be disclosed prior to its
16 review by the department.

17 3. At its discretion, the department may disclose complaints, completed
18 investigatory reports and information obtained from state administrative and law
19 enforcement agencies to a certificate holder, licensee or applicant in order to further an
20 investigation or to facilitate settlement negotiations.