

SECOND REGULAR SESSION

# HOUSE BILL NO. 1181

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES CORCORAN (Sponsor), MOORE AND ZWEIFEL (Co-sponsors).

Pre-filed December 22, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3771L.01I

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### AN ACT

To repeal section 168.071, RSMo, and to enact in lieu thereof one new section relating to teaching certificates.

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

Section A. Section 168.071, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 168.071, to read as follows:

168.071. 1. The state board of education may refuse to issue or renew a certificate, or may, upon hearing, discipline the holder of a certificate of license to teach for the following causes:

(1) A certificate holder or applicant for a certificate has pleaded to or been found guilty of a felony or crime involving moral turpitude under the laws of this state, any other state, of the United States, or any other country, whether or not sentence is imposed;

(2) The certification was obtained through use of fraud, deception, misrepresentation or bribery;

(3) There is evidence of incompetence, immorality, or neglect of duty by the certificate holder;

(4) A certificate holder has been subject to disciplinary action relating to certification issued by another state, territory, federal agency, or country upon grounds for which discipline is authorized in this section; or

(5) If charges are filed by the local board of education, based upon the annulling of a written contract with the local board of education, for reasons other than election to the general

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 assembly, without the consent of the majority of the members of the board that is a party to the  
17 contract.

18         2. A public school district may file charges seeking the discipline of a holder of a  
19 certificate of license to teach based upon any cause or combination of causes outlined in  
20 subsection 1 of this section, including annulment of a written contract. Charges shall be in  
21 writing, specify the basis for the charges, and be signed by the chief administrative officer of the  
22 district, or by the president of the board of education as authorized by a majority of the board of  
23 education. The board of education may also petition the office of the attorney general to file  
24 charges on behalf of the school district for any cause other than annulment of contract, with  
25 acceptance of the petition at the discretion of the attorney general.

26         3. The department of elementary and secondary education may file charges seeking the  
27 discipline of a holder of a certificate of license to teach based upon any cause or combination of  
28 causes outlined in subsection 1 of this section, other than annulment of contract. Charges shall  
29 be in writing, specify the basis for the charges, and be signed by legal counsel representing the  
30 department of elementary and secondary education.

31         4. If the underlying conduct or actions which are the basis for charges filed pursuant to  
32 this section are also the subject of a pending criminal charge against the person holding such  
33 certificate, the certificate holder may request, in writing, a delayed hearing on advice of counsel  
34 under the fifth amendment of the Constitution of the United States. Based upon such a request,  
35 no hearing shall be held until after a trial has been completed on this criminal charge.

36         5. The certificate holder shall be given not less than thirty days' notice of any hearing  
37 held pursuant to this section.

38         6. Other provisions of this section notwithstanding, the certificate of license to teach  
39 shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate  
40 holder or applicant has pleaded guilty to or been found guilty of any of the following offenses  
41 established pursuant to Missouri law or offenses of a similar nature established under the laws  
42 of any other state or of the United States, or any other country, whether or not the sentence is  
43 imposed:

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

46             (2) Any of the following sexual offenses: rape; statutory rape in the first degree;  
47 statutory rape in the second degree; sexual assault; forcible sodomy; statutory sodomy in the first  
48 degree; statutory sodomy in the second degree; child molestation in the first degree; child  
49 molestation in the second degree; deviate sexual assault; sexual misconduct involving a child;  
50 sexual misconduct in the first degree; sexual abuse; enticement of a child; or attempting to entice  
51 a child;

52 (3) Any of the following offenses against the family and related offenses: incest;  
53 abandonment of child in the first degree; abandonment of child in the second degree;  
54 endangering the welfare of a child in the first degree; abuse of a child; child used in a sexual  
55 performance; promoting sexual performance by a child; or trafficking in children; and

56 (4) Any of the following offenses involving child pornography and related offenses:  
57 promoting obscenity in the first degree; promoting obscenity in the second degree when the  
58 penalty is enhanced to a class D felony; promoting child pornography in the first degree;  
59 promoting child pornography in the second degree; possession of child pornography in the first  
60 degree; possession of child pornography in the second degree; furnishing child pornography to  
61 a minor; furnishing pornographic materials to minors; or coercing acceptance of obscene  
62 material.

63 7. When a certificate holder pleads guilty or is found guilty of any offense that would  
64 authorize the state board of education to seek discipline against that holder's certificate of license  
65 to teach, the local board of education or the department of elementary and secondary education  
66 shall immediately provide written notice to the state board of education and the attorney general  
67 regarding the plea of guilty or finding of guilty.

68 8. The certificate holder whose certificate was revoked pursuant to subsection 6 of this  
69 section may appeal such revocation to the state board of education. Notice of this appeal must  
70 be received by the commissioner of education within ninety days of notice of revocation pursuant  
71 to this subsection. Failure of the certificate holder to notify the commissioner of the intent to  
72 appeal waives all rights to appeal the revocation. Upon notice of the certificate holder's intent  
73 to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner  
74 of education, with the final decision made by the state board of education, based upon the record  
75 of that hearing. The certificate holder shall be given not less than thirty days' notice of the  
76 hearing, and an opportunity to be heard by the hearing officer, together with witnesses.

77 9. In the case of any certificate holder who has surrendered or failed to renew his or her  
78 certificate of license to teach, the state board of education may refuse to issue or renew, or may  
79 suspend or revoke, such certificate for any of the reasons contained in this section.

80 10. In those cases where the charges filed pursuant to this section are based upon an  
81 allegation of misconduct involving a minor child, the hearing officer may accept into the record  
82 the sworn testimony of the minor child relating to the misconduct received in any court or  
83 administrative hearing.

84 11. Hearings, appeals or other matters involving certificate holders, licensees or  
85 applicants pursuant to this section may be informally resolved by consent agreement or agreed  
86 settlement or voluntary surrender of the certificate of license pursuant to the rules promulgated  
87 by the state board of education.

88           12. The final decision of the state board of education is subject to judicial review  
89 pursuant to sections 536.100 to 536.140, RSMo.

90           13. A certificate of license to teach to an individual who has been convicted of a felony  
91 or crime involving moral turpitude, whether or not sentence is imposed, shall be issued only  
92 upon [motion of the state board of education adopted by a unanimous affirmative vote of those  
93 members present and voting] **investigation of such application by the department of**  
94 **elementary and secondary education and approval of the commissioner of education.**  
95 **Denial of a certificate of license to teach by the commissioner of education under this**  
96 **subsection may be appealed to the state board of education.**

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