

SECOND REGULAR SESSION

# HOUSE BILL NO. 2272

## 103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LEWIS.

5775H.011

JOSEPH ENGLER, Chief Clerk

### AN ACT

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

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Section A. Section 168.071, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 168.071, to read as follows: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

(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 assembly, without the consent of the majority of the members of the board that is a party to the contract].~~

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.

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  
22 the district, or by the president of the board of education as authorized by a majority of the  
23 board of education. The board of education may also petition the office of the attorney  
24 general to file charges on behalf of the school district for any cause ~~[other than annulment of~~  
25 ~~contract]~~, with acceptance of the petition at the discretion of the attorney general.

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

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

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

39           6. Other provisions of this section notwithstanding, the certificate of license to teach  
40 shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the  
41 certificate holder or applicant has been found guilty of any of the following offenses  
42 established pursuant to Missouri law or offenses of a similar nature established under the laws  
43 of Missouri prior to January 1, 2017, any other state or of the United States, or any other  
44 country, whether or not the sentence is imposed:

45           (1) Any dangerous felony as defined in section 556.061, or murder in the first degree  
46 under section 565.020;

47           (2) Any of the following sexual offenses: rape in the first degree under section  
48 566.030; forcible rape; rape; statutory rape in the first degree under section 566.032; statutory  
49 rape in the second degree under section 566.034; rape in the second degree under section  
50 566.031; sexual assault under section 566.040 as it existed prior to August 28, 2013; sodomy  
51 in the first degree under section 566.060; forcible sodomy under section 566.060 as it existed  
52 prior to August 28, 2013; sodomy as it existed prior to January 1, 1995; statutory sodomy in  
53 the first degree under section 566.062; statutory sodomy in the second degree under section  
54 566.064; child molestation in the first degree; child molestation in the second degree; child

55 molestation in the third degree under section 566.069; child molestation in the fourth degree  
56 under section 566.071; sodomy in the second degree under section 566.061; deviate sexual  
57 assault under section 566.070 as it existed prior to August 28, 2013; sexual misconduct  
58 involving a child under section 566.083; sexual contact with a student under section 566.086;  
59 sexual misconduct in the first degree under section 566.093; sexual misconduct in the first  
60 degree under section 566.090 as it existed prior to August 28, 2013; sexual misconduct in the  
61 second degree under section 566.095; sexual misconduct in the second degree under section  
62 566.093 as it existed prior to August 28, 2013; sexual misconduct in the third degree under  
63 section 566.095 as it existed prior to August 28, 2013; sexual abuse in the first degree under  
64 section 566.100; sexual abuse under section 566.100 as it existed prior to August 28, 2013;  
65 sexual abuse in the second degree under section 566.101; enticement of a child under section  
66 566.151; or attempting to entice a child;

67 (3) Any of the following offenses against the family and related offenses: incest  
68 under section 568.020; abandonment of child in the first degree under section 568.030;  
69 abandonment of child in the second degree under section 568.032; endangering the welfare of  
70 a child in the first degree under section 568.045; abuse of a child under section 568.060; child  
71 used in a sexual performance; promoting sexual performance by a child; or trafficking in  
72 children under section 568.175; and

73 (4) Any of the following offenses involving child pornography and related offenses:  
74 promoting obscenity in the first degree under section 573.020; promoting pornography for  
75 minors or obscenity in the second degree when the penalty is enhanced to a class E felony  
76 under section 573.030; promoting child pornography in the first degree under section  
77 573.025; promoting child pornography in the second degree under section 573.035;  
78 possession of child pornography under section 573.037; furnishing pornographic materials to  
79 minors under section 573.040; or coercing acceptance of obscene material under section  
80 573.065.

81 7. When a certificate holder is found guilty of any offense that would authorize the  
82 state board of education to seek discipline against that holder's certificate of license to teach,  
83 the local board of education or the department of elementary and secondary education shall  
84 immediately provide written notice to the state board of education and the attorney general  
85 regarding the finding of guilt.

86 8. The certificate holder whose certificate was revoked pursuant to subsection 6 of  
87 this section may appeal such revocation to the state board of education. Notice of this appeal  
88 must be received by the commissioner of education within ninety days of notice of revocation  
89 pursuant to this subsection. Failure of the certificate holder to notify the commissioner of the  
90 intent to appeal waives all rights to appeal the revocation. Upon notice of the certificate  
91 holder's intent to appeal, an appeal hearing shall be held by a hearing officer designated by the

92 commissioner of education, with the final decision made by the state board of education,  
93 based upon the record of that hearing. The certificate holder shall be given not less than thirty  
94 days' notice of the hearing, and an opportunity to be heard by the hearing officer, together  
95 with witnesses.

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

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

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

107         12. The final decision of the state board of education is subject to judicial review  
108 pursuant to sections 536.100 to 536.140.

109         13. A certificate of license to teach to an individual who has been convicted of a  
110 felony or crime involving moral turpitude, whether or not sentence is imposed, shall be issued  
111 only upon motion of the state board of education adopted by a unanimous affirmative vote of  
112 those members present and voting.

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