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LEGISLATIVE ACTION

Senate

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House

The Committee on Education (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Delete lines 430 - 564

and insert:

public school in any capacity requiring an educator certificate
~~direct contact with students~~ for that period of time, after
which the person holder may return to teaching as provided in
subsection (4); may revoke the educator certificate of any
person, thereby denying that person the right to teach or
otherwise be employed by a district school board or public
school in any capacity requiring an educator certificate ~~direct~~



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12 ~~contact with students~~ for up to 10 years, with reinstatement
13 subject to ~~the provisions of~~ subsection (4); may permanently
14 revoke ~~permanently~~ the educator certificate of any person,
15 thereby denying that person the right to teach or otherwise be
16 employed by a district school board or public school in any
17 capacity requiring an educator certificate ~~direct contact with~~
18 ~~students~~; may suspend a person's ~~the~~ educator certificate, upon
19 an order of the court or notice by the Department of Revenue
20 relating to the payment of child support; or may impose any
21 other penalty provided by law, if the person:

22 (a) Obtained or attempted to obtain an educator certificate
23 by fraudulent means.

24 (b) Knowingly failed to report actual or suspected child
25 abuse as required in s. 1006.061 or report alleged misconduct by
26 instructional personnel or school administrators which affects
27 the health, safety, or welfare of a student as required in s.
28 1012.796.

29 (c) Has proved to be incompetent to teach or to perform
30 duties as an employee of the public school system or to teach in
31 or to operate a private school.

32 (d) Has been guilty of gross immorality or an act involving
33 moral turpitude as defined by rule of the State Board of
34 Education.

35 (e) Has had an educator certificate or other professional
36 license sanctioned by this or any other ~~revocation, suspension,~~
37 ~~or surrender in another~~ state or has had the authority to
38 practice the regulated profession revoked, suspended, or
39 otherwise acted against, including a denial of certification or
40 licensure, by the licensing or certifying authority of any



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41 jurisdiction, including its agencies and subdivisions. The
42 licensing or certifying authority's acceptance of a
43 relinquishment, stipulation, consent order, or other settlement
44 offered in response to or in anticipation of the filing of
45 charges against the licensee or certificateholder shall be
46 construed as action against the license or certificate.

47 (f) Regardless of adjudication, has been convicted or found
48 guilty of, or entered a plea of guilty or nolo contendere to,
49 ~~regardless of adjudication of guilt,~~ a misdemeanor, a felony, or
50 any other criminal charge, other than a minor traffic violation.

51 (g) Upon investigation, has been found guilty of personal
52 conduct that seriously reduces that person's effectiveness as an
53 employee of the district school board.

54 (h) Has breached a contract, as provided in s. 1012.33(2)
55 or s. 1012.335.

56 (i) Has been the subject of a court order or notice by the
57 Department of Revenue pursuant to s. 409.2598 directing the
58 Education Practices Commission to suspend the certificate as a
59 result of noncompliance with a child support order, a subpoena,
60 an order to show cause, or a written agreement with the
61 Department of Revenue.

62 (j) Has violated the Principles of Professional Conduct for
63 the Education Profession prescribed by State Board of Education
64 rules.

65 (k) Has otherwise violated the provisions of law, the
66 penalty for which is the revocation of the educator certificate.

67 (l) Has violated any order of the Education Practices
68 Commission.

69 (m) Has been the subject of a court order or plea agreement



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70 in any jurisdiction which requires the certificateholder to
71 surrender or otherwise relinquish his or her educator ~~educator's~~
72 certificate. A surrender or relinquishment shall be for
73 permanent revocation of the certificate. A person may not
74 surrender or otherwise relinquish his or her certificate before
75 ~~prior to~~ a finding of probable cause by the commissioner as
76 provided in s. 1012.796.

77 (n) Has been disqualified from educator certification under
78 s. 1012.315.

79 (o) Has committed a third recruiting offense as determined
80 by the Florida High School Athletic Association (FHSAA) pursuant
81 to s. 1006.20(2)(b).

82 (p) Has violated test security rules as provided in s.
83 1008.24.

84 (5) Each district school superintendent and the governing
85 authority of each university lab school, state-supported school,
86 private school, and the FHSAA shall report to the department the
87 name of any person certified pursuant to this chapter ~~or~~
88 ~~employed and qualified pursuant to s. 1012.39:~~

89 (a) Who has been convicted or found guilty of, who has had
90 adjudication withheld, or who has pled guilty or nolo contendere
91 ~~to,~~ a misdemeanor, a felony, or any other criminal charge, other
92 than a minor traffic infraction;

93 (b) Who that official has reason to believe has committed
94 or is found to have committed any act which would be a ground
95 for revocation or suspension under subsection (1); or

96 (c) Who has been dismissed or severed from employment
97 because of conduct involving any immoral, unnatural, or
98 lascivious act.



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99 Section 9. Paragraphs (d) and (e) of subsection (1) and
100 subsections (3), (4), (6), and (7) of section 1012.796, Florida
101 Statutes, are amended to read:

102 1012.796 Complaints against teachers and administrators;
103 procedure; penalties.—

104 (1)

105 (d) Each school district shall file in writing with the
106 department all legally sufficient complaints within 30 days
107 after it finds probable cause for disciplinary action to be
108 taken, at the time the date on which subject matter of the
109 complaint resigns, or after an investigation has been inactive
110 for 60 days, whichever occurs first ~~comes to the attention of~~
111 ~~the school district~~. A complaint is legally sufficient if it
112 contains ultimate facts that show a violation has occurred as
113 provided in s. 1012.795 and defined by rule of the State Board
114 of Education. The school district shall include all information
115 relating to the complaint which is known to the school district
116 at the time of filing. Each district school board shall develop
117 and adopt policies and procedures to comply with this reporting
118 requirement. School board policies and procedures must include
119 standards for screening, hiring, and terminating instructional
120 personnel and school administrators, as defined in s. 1012.01;
121 standards of ethical conduct for instructional personnel and
122 school administrators; the duties of instructional personnel and
123 school administrators for upholding the standards; detailed
124 procedures for reporting alleged misconduct by instructional
125 personnel and school administrators which affects the health,
126 safety, or welfare of a student; requirements for the
127 reassignment of instructional personnel or school administrators



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128 pending the outcome of a misconduct investigation; and penalties
129 for failing to comply with s. 1001.51 or s. 1012.795. The
130 district school board policies and procedures shall include
131 appropriate penalties for all personnel of the district school
132 board for nonreporting and procedures for promptly informing the
133 district school superintendent of each legally sufficient
134 complaint. The district school superintendent is charged with
135 knowledge of these policies and procedures and is accountable
136 for the training of all instructional personnel and school
137 administrators of the school district on the standards of
138 ethical conduct, policies, and procedures. If the district
139 school superintendent has knowledge of a legally sufficient
140 complaint upon which probable cause for disciplinary action has
141 been found and does not report the complaint, or fails to
142 enforce the policies and procedures of the district school
143 board, and fails to comply with the requirements of this
144 subsection, in addition to other actions against
145 certificateholders authorized by law, the district school
146 superintendent is subject to penalties as specified in s.
147 1001.51(12). If the superintendent determines that misconduct by
148 instructional personnel or school administrators who hold an
149 educator certificate affects the health, safety, or welfare of a
150 student and the misconduct warrants termination, the
151 instructional personnel or school administrators may resign or
152 be terminated, and the superintendent must report the misconduct
153 to the department in the format prescribed by the department.
154 The department shall maintain each report of misconduct as a
155 public record in the instructional personnel's or school
156 administrators' certification files. This paragraph does not



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157 limit or restrict the power and duty of the department to
158 investigate complaints, regardless of the school district's
159 untimely filing, or failure to file, complaints and followup
160 reports.

161 (e) If allegations arise against an employee who is
162 certified under s. 1012.56 and employed in an educator-
163 certificated position in any public school, charter school or
164 governing board thereof, or private school that accepts
165 scholarship students under s. 1002.39 or s. 1002.395, the school
166 shall file in writing with the department a legally sufficient
167 complaint within 30 days after the date on which it finds
168 probable cause for disciplinary action to be taken, at the time
169 the subject ~~matter~~ of the complaint resigns, or after an
170 investigation has been inactive for 60 days, whichever occurs
171 first ~~came to the attention of the school.~~ A complaint is
172 legally sufficient if it contains ultimate facts that show a
173 violation has occurred as provided in s. 1012.795 and defined by
174 rule of the State Board of Education. The school shall include
175 all known information relating to the complaint with the filing
176 of the complaint. This paragraph does not limit or restrict the
177 power and duty of the department to investigate complaints,
178 regardless of the school's untimely filing, or failure to file,
179 complaints and followup reports.

180 (3) The department staff shall advise the commissioner
181 concerning the findings of the investigation and of all
182 referrals by the Florida High School Athletic Association
183 (FHSA) pursuant to ss. 1006.20(2)(b) and 1012.795. The
184 department general counsel or members of that staff shall review
185 the investigation or the referral and advise the commissioner



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186 concerning probable cause or lack thereof. The determination of
187 probable cause shall be made by the commissioner. The
188 commissioner shall determine if probable cause exists within 180
189 days after receipt of a complaint; however, this requirement may
190 be waived by the certificateholder or may be extended for up to
191 an additional 90 days upon a showing of good cause as stated in
192 the record and approved by a vote of at least five members of a
193 panel of the Education Practices Commission which considers the
194 matter under subsection (6). The commissioner shall provide an
195 opportunity for a conference, if requested, before ~~prior to~~
196 determining probable cause. The commissioner may enter into
197 deferred prosecution agreements in lieu of finding probable
198 cause if, in his or her judgment, such agreements are in the
199 best interests of the department, the certificateholder, and the
200 public. Such deferred prosecution agreements shall become
201 effective when filed with the clerk of the Education Practices
202 Commission. However, a deferred prosecution agreement may not be
203 entered into if there is probable cause to believe that a felony
204 or an act of moral turpitude, as defined by rule of the State
205 Board of Education, has occurred, or for referrals by the FHSAA.
206 Upon finding no probable cause, the commissioner shall dismiss
207 the complaint and may issue a letter of guidance to the
208 certificateholder.

209 (4) The complaint and all information obtained pursuant to
210 the investigation by the department shall be confidential and
211 exempt from ~~the provisions of~~ s. 119.07(1) until the conclusion
212 of the preliminary investigation of the complaint, until such
213 time as the preliminary investigation ceases to be active, or
214 until such time as otherwise provided by s. 1012.798(6).



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215 However, the complaint and all material assembled during the
216 investigation may be inspected and copied by the
217 certificateholder under investigation, or the
218 certificateholder's designee, after the investigation is
219 concluded, but before ~~prior to~~ the determination of probable
220 cause by the commissioner. If the preliminary investigation is
221 concluded with the finding that there is no probable cause to
222 proceed, the complaint and information shall be open thereafter
223 to inspection pursuant to s. 119.07(1). If the preliminary
224 investigation is concluded with the finding that there is
225 probable cause to proceed and a complaint is filed pursuant to
226 subsection (6), the complaint and information shall be open
227 thereafter to inspection pursuant to s. 119.07(1). If the
228 preliminary investigation ceases to be active, the complaint and
229 all such material shall be open thereafter to inspection
230 pursuant to s. 119.07(1), except as otherwise provided pursuant
231 to s. 1012.798(6). For the purpose of this subsection, a
232 preliminary investigation shall be considered active as long as
233 it is continuing with a reasonable, good faith anticipation that
234 an administrative finding will be made in the foreseeable
235 future, but for not more than 90 days unless such period is
236 extended for good cause as stated in the record and approved by
237 a vote of at least five members of the Education Practices
238 Commission which considers the matter under subsection (6).

239 (6) Upon the finding of probable cause, the commissioner
240 shall file a formal complaint and prosecute the complaint
241 pursuant to ~~the provisions of~~ chapter 120. An administrative law
242 judge shall be assigned by the Division of Administrative
243 Hearings of the Department of Management Services to hear the



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244 complaint if there are disputed issues of material fact. The
245 administrative law judge shall make recommendations in
246 accordance with ~~the provisions of~~ subsection (7) to the
247 appropriate Education Practices Commission panel which shall
248 conduct a formal review of such recommendations and other
249 pertinent information and issue a final order. The commission
250 shall consult with its legal counsel before ~~prior to~~ issuance of
251 a final order. The department and the certificateholder may
252 reach an agreement to resolve the matter if the agreement is
253 approved by a panel of the commission as provided in this
254 subsection. The agreement must be presented to the panel within
255 90 days the agreement is fully executed; however, this
256 requirement may be waived by the certificateholder or may be
257 extended for up to an additional 90 days by a vote of at least
258 five members of the panel and upon a showing of good cause as
259 stated in the record.

260 (7) A panel of the commission shall enter a final order
261 either dismissing the complaint, approving a settlement
262 agreement, or imposing one or more of the following penalties:

263 (a) Denial of an application for a ~~teaching~~ certificate or
264 for an administrative or supervisory endorsement on a teaching
265 certificate. The denial may provide that the applicant may not
266 reapply for certification, and that the department may refuse to
267 consider that applicant's application, for a specified period of
268 time or permanently.

269 (b) Revocation or suspension of a certificate.

270 (c) Imposition of an administrative fine not to exceed
271 \$2,000 for each count or separate offense.

272 (d) Placement of the teacher, administrator, or supervisor



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273 on probation for a period of time and subject to such conditions
274 as the commission may specify, including requiring the certified
275 teacher, administrator, or supervisor to complete additional
276 appropriate college courses or work with another certified
277 educator, with the administrative costs of monitoring the
278 probation assessed to the educator placed on probation. An
279 educator who has been placed on probation shall, at a minimum:

280 1. Immediately notify the investigative office in the
281 Department of Education upon employment or separation from
282 ~~termination of employment in the state~~ in any public or private
283 position requiring a Florida educator's certificate.

284 2. Have his or her immediate supervisor submit annual
285 performance reports to the investigative office in the
286 Department of Education.

287 3. Pay to the commission within the first 6 months of each
288 probation year the administrative costs of monitoring probation
289 assessed to the educator.

290 4. Violate no law and fully comply with all district school
291 board policies, school rules, and State Board of Education
292 rules.

293 5. Satisfactorily perform his or her assigned duties in a
294 competent, professional manner.

295 6. Bear all costs of complying with the terms of a final
296 order entered by the commission.

297 (e) Restriction of the authorized scope of practice of the
298 teacher, administrator, or supervisor.

299 (f) Reprimand of the teacher, administrator, or supervisor
300 in writing, with a copy to be placed in the certification file
301 of such person.



302 (g) Imposition of an administrative sanction, upon a person
303 whose teaching certificate has expired, for an act or acts
304 committed while that person possessed a teaching certificate or
305 an expired certificate subject to late renewal, which sanction
306 bars that person from applying for a new certificate for a
307 period of 10 years or less, or permanently.

308 (h) Refer the teacher, administrator, or supervisor to the
309 recovery network program provided in s. 1012.798 under such
310 terms and conditions as the commission may specify.

311
312 The penalties imposed under this subsection are in addition to,
313 and not in lieu of, the penalties required for a third
314 recruiting offense pursuant to s. 1006.20(2)(b). A
315 certificateholder who serves a period of probation is not
316 disqualified from employment opportunities within a school
317 district.

318
319 ===== T I T L E A M E N D M E N T =====

320 And the title is amended as follows:

321 Delete lines 32 - 35

322 and insert:

323 criteria; amending s. 1012.796, F.S.; revising school
324 district and school reporting requirements for the
325 filing of complaints against educators and
326 administrators; requiring the Commissioner of
327 Education to determine if probable cause exists within
328 a specified timeframe; requiring certified educators
329 who are placed on probation to immediately notify a
330 specified office upon separation from, rather than



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331 termination of, employment; providing that such
332 educators are not disqualified from employment
333 opportunities within a school district;