

By Senator Detert

28-00850A-15

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1 A bill to be entitled
2 An act relating to educator professional practices;
3 amending s. 39.202, F.S.; authorizing certain
4 employees or agents of the Department of Education to
5 have access to certain reports and records; amending
6 s. 1012.79, F.S.; revising the membership of the
7 Education Practices Commission; authorizing the
8 Commissioner of Education to appoint emeritus members
9 to the commission; amending s. 1012.796, F.S.;
10 authorizing the commissioner to issue a letter of
11 guidance in response to a complaint against a teacher
12 or administrator in lieu of a probable cause
13 determination; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Present paragraphs (q) through (s) of subsection
18 (2) of section 39.202, Florida Statutes, are redesignated as
19 paragraphs (r) through (t), respectively, and a new paragraph
20 (q) is added to that subsection, to read:

21 39.202 Confidentiality of reports and records in cases of
22 child abuse or neglect.—

23 (2) Except as provided in subsection (4), access to such
24 records, excluding the name of the reporter which shall be
25 released only as provided in subsection (5), shall be granted
26 only to the following persons, officials, and agencies:

27 (q) An employee or agent of the Department of Education who
28 is responsible for the investigation or prosecution of
29 misconduct by a certified educator.

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30 Section 2. Subsection (1) of section 1012.79, Florida
31 Statutes, is amended to read:

32 1012.79 Education Practices Commission; organization.—

33 (1) The Education Practices Commission is composed ~~consists~~
34 of the following 25 members: 10, ~~including 8~~ teachers; 5
35 administrators, at least one of whom represents ~~shall represent~~
36 a private or virtual school; 4 ~~7~~ lay citizens who are, ~~5 of whom~~
37 ~~shall be~~ parents of public school students and who are unrelated
38 to public school employees; and 2 of whom shall be former
39 charter school governing board or district school board members
40 or former superintendents, assistant superintendents, or deputy
41 superintendents; and 4 ~~5~~ sworn law enforcement officials,
42 appointed by the State Board of Education from nominations by
43 the Commissioner of Education and subject to Senate
44 confirmation. Prior to making nominations, the commissioner
45 shall consult with teaching associations, parent organizations,
46 law enforcement agencies, and other involved associations in the
47 state. In making nominations, the commissioner shall attempt to
48 achieve equal geographical representation, as closely as
49 possible.

50 (a) A teacher member, in order to be qualified for
51 appointment:

- 52 1. Must be certified to teach in the state.
- 53 2. Must be a resident of the state.
- 54 3. Must have practiced the profession in this state for at
55 least 5 years immediately preceding the appointment.

56 (b) A school administrator member, in order to be qualified
57 for appointment:

- 58 1. Must have an endorsement on the educator certificate in

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59 the area of school administration or supervision.

60 2. Must be a resident of the state.

61 3. Must have practiced the profession as an administrator
62 for at least 5 years immediately preceding the appointment.

63 (c) All ~~The lay~~ members must be residents of the state.

64 (d) The law enforcement official members must have served
65 in the profession for at least 5 years immediately preceding
66 appointment and have background expertise in child safety.

67 (e) The Commissioner of Education, upon request or
68 recommendation from the commission, may also appoint up to 5
69 emeritus members from the commission's prior membership to serve
70 1-year terms. Notwithstanding any prior service on the
71 commission, an emeritus member may serve up to five 1-year
72 terms. An emeritus member serves as a voting member at a
73 discipline hearing and as a consulting but nonvoting member
74 during a business meeting.

75 Section 3. Subsection (3) of section 1012.796, Florida
76 Statutes, is amended to read:

77 1012.796 Complaints against teachers and administrators;
78 procedure; penalties.—

79 (3) The department staff shall advise the commissioner
80 concerning the findings of the investigation. The department
81 general counsel or members of that staff shall review the
82 investigation and advise the commissioner concerning probable
83 cause or lack thereof. The determination of probable cause shall
84 be made by the commissioner. The commissioner shall provide an
85 opportunity for a conference, if requested, prior to determining
86 probable cause. The commissioner may enter into deferred
87 prosecution agreements in lieu of finding probable cause if, in

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88 his or her judgment, such agreements are in the best interests
89 of the department, the certificateholder, and the public. Such
90 deferred prosecution agreements shall become effective when
91 filed with the clerk of the Education Practices Commission.
92 However, a deferred prosecution agreement may ~~shall~~ not be
93 entered into if there is probable cause to believe that a felony
94 or an act of moral turpitude, as defined by rule of the State
95 Board of Education, has occurred. Upon finding no probable
96 cause, the commissioner shall dismiss the complaint. In lieu of
97 a finding of probable cause, the commissioner may also issue a
98 letter of guidance to the educator.

99 Section 4. This act shall take effect July 1, 2015.