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CS/CS/HB 719

2016 Legislature

1
2 An act relating to education personnel; amending s.
3 39.201, F.S.; authorizing certain information to be
4 used for educator certification discipline and review;
5 amending s. 39.202, F.S.; authorizing certain
6 employees or agents of the Department of Education to
7 have access to certain reports and records; amending
8 s. 1012.05, F.S.; authorizing rather than requiring
9 the Department of Education to sponsor a job fair
10 meeting certain criteria; requiring the department to
11 coordinate a best practice community; amending s.
12 1012.2315, F.S.; eliminating State Board of Education
13 rulemaking authority for certain teacher assignments;
14 amending s. 1012.39, F.S.; providing requirements
15 regarding liability insurance for students performing
16 clinical field experience; creating s. 1012.562, F.S.;
17 requiring the department to approve school leader
18 preparation programs; providing for approval;
19 providing program requirements; providing for
20 rulemaking; amending s. 1012.75, F.S.; requiring
21 annual notification of liability insurance to
22 specified personnel; abrogating the scheduled
23 expiration of the educator liability insurance
24 program; amending s. 1012.79, F.S.; revising
25 membership of the Education Practices Commission;
26 authorizing the Commissioner of Education to appoint

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27 emeritus members to the commission; amending s.
 28 1012.796, F.S.; authorizing the commissioner to issue
 29 a letter of guidance in response to a complaint
 30 against a certified teacher or administrator;
 31 providing an effective date.

32
 33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Subsection (6) of section 39.201, Florida
 36 Statutes, is amended to read:

37 39.201 Mandatory reports of child abuse, abandonment, or
 38 neglect; mandatory reports of death; central abuse hotline.—

39 (6) Information in the central abuse hotline may not be
 40 used for employment screening, except as provided in s.
 41 39.202(2)(a) and (h). Information in the central abuse hotline
 42 and the department's automated abuse information system may be
 43 used by the department, its authorized agents or contract
 44 providers, the Department of Health, or county agencies as part
 45 of the licensure or registration process pursuant to ss.
 46 402.301-402.319 and ss. 409.175-409.176. Pursuant to s.
 47 39.202(2)(q), the information in the central abuse hotline may
 48 also be used by the Department of Education for purposes of
 49 educator certification discipline and review.

50 Section 2. Paragraphs (q), (r), and (s) of subsection (2)
 51 of section 39.202, Florida Statutes, are redesignated as
 52 paragraphs (r), (s), and (t), respectively, and a new paragraph

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53 (q) is added to that subsection, to read:

54 39.202 Confidentiality of reports and records in cases of
55 child abuse or neglect.—

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

60 (q) An employee or agent of the Department of Education
61 who is responsible for the investigation or prosecution of
62 misconduct by a certified educator.

63 Section 3. Subsection (4) of section 1012.05, Florida
64 Statutes, is amended to read:

65 1012.05 Teacher recruitment and retention.—

66 (4) The Department of Education, in cooperation with
67 district personnel offices, may ~~shall~~ sponsor a job fair in a
68 central part of the state to match in-state educators and
69 potential educators and out-of-state educators and potential
70 educators with teaching opportunities in this state. The
71 Department of Education is authorized to collect a job fair
72 registration fee not to exceed \$20 per person and a booth fee
73 not to exceed \$250 per school district or other interested
74 participating organization. The revenue from the fees shall be
75 used to promote and operate the job fair. Funds may be used to
76 purchase promotional items such as mementos, awards, and
77 plaques. The Department of Education shall also coordinate a
78 best practice community to ensure that school district personnel

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79 responsible for teacher recruitment and other human resources
80 functions are operating with the most up-to-date knowledge.

81 Section 4. Paragraph (b) of subsection (2) of section
82 1012.2315, Florida Statutes, is amended to read:

83 1012.2315 Assignment of teachers.—

84 (2) ASSIGNMENT TO SCHOOLS GRADED "D" or "F".—

85 (b)1. Beginning July 1, 2014, a school district may assign
86 an individual newly hired as instructional personnel to a school
87 that has earned a grade of "F" in the previous year or any
88 combination of three consecutive grades of "D" or "F" in the
89 previous 3 years pursuant to s. 1008.34 if the individual:

90 a. Has received an effective rating or highly effective
91 rating in the immediate prior year's performance evaluation
92 pursuant s. 1012.34;

93 b. Has successfully completed or is enrolled in a teacher
94 preparation program pursuant to s. 1004.04, s. 1004.85, or s.
95 1012.56, or a teacher preparation program specified in State
96 Board of Education rule, is provided with high quality mentoring
97 during the first 2 years of employment, holds a certificate
98 issued pursuant to s. 1012.56, and holds a probationary contract
99 pursuant to s. 1012.335(2) (a); or

100 c. Holds a probationary contract pursuant to s.
101 1012.335(2) (a), holds a certificate issued pursuant to s.
102 1012.56, and has successful teaching experience, and if, in the
103 judgment of the school principal, students would benefit from
104 the placement of that individual.

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105 2. As used in this paragraph, the term "mentoring"
 106 includes the use of student achievement data combined with at
 107 least monthly observations to improve the educator's
 108 effectiveness in improving student outcomes. Mentoring may be
 109 provided by a school district, a teacher preparation program
 110 approved pursuant to s. 1004.04, s. 1004.85, or s. 1012.56, or a
 111 teacher preparation program specified in State Board of
 112 Education rule.

113 ~~3. The State Board of Education shall adopt rules under~~
 114 ~~ss. 120.536(1) and 120.54 to implement this paragraph.~~

115
 116 Each school district shall annually certify to the Commissioner
 117 of Education that the requirements in this subsection have been
 118 met. If the commissioner determines that a school district is
 119 not in compliance with this subsection, the State Board of
 120 Education shall be notified and shall take action pursuant to s.
 121 1008.32 in the next regularly scheduled meeting to require
 122 compliance.

123 Section 5. Subsection (3) of section 1012.39, Florida
 124 Statutes, is amended to read:

125 1012.39 Employment of substitute teachers, teachers of
 126 adult education, nondegreed teachers of career education, and
 127 career specialists; students performing clinical field
 128 experience.—

129 (3) A student who is enrolled in a state-approved teacher
 130 preparation program in a postsecondary educational institution

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131 that is approved by rules of the State Board of Education and
132 who is jointly assigned by the postsecondary educational
133 institution and a district school board to perform a clinical
134 field experience under the direction of a regularly employed and
135 certified educator shall, while serving such supervised clinical
136 field experience, be accorded the same protection of law as that
137 accorded to the certified educator except for the right to
138 bargain collectively as an employee of the district school
139 board. The district school board providing the clinical field
140 experience shall notify the student electronically or in writing
141 of the availability of educator liability insurance under s.
142 1012.75. A postsecondary educational institution or district
143 school board may not require a student enrolled in a state-
144 approved teacher preparation program to purchase liability
145 insurance as a condition of participation in any clinical field
146 experience or related activity on the premises of an elementary
147 or secondary school.

148 Section 6. Section 1012.562, Florida Statutes, is created
149 to read:

150 1012.562 Public accountability and state approval of school
151 leader preparation programs.—The Department of Education shall
152 establish a process for the approval of Level I and Level II
153 school leader preparation programs that will enable aspiring
154 school leaders to obtain their certificate in educational
155 leadership under s. 1012.56. School leader preparation programs
156 must be competency-based, aligned to the principal leadership

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157 standards adopted by the state board, and open to individuals
 158 employed by public schools, including charter schools and virtual
 159 schools. Level I programs may be offered by school districts or
 160 postsecondary institutions and lead to initial certification in
 161 educational leadership for the purpose of preparing individuals
 162 to serve as school administrators. Level II programs may be
 163 offered by school districts, build upon Level I training, and
 164 lead to renewal certification as a school principal.

165 (1) PURPOSE.—The purpose of school leader preparation
 166 programs are to:

167 (a) Increase the supply of effective school leaders in the
 168 public schools of this state.

169 (b) Produce school leaders who are prepared to lead the
 170 state's diverse student population in meeting high standards for
 171 academic achievement.

172 (c) Enable school leaders to facilitate the development and
 173 retention of effective and highly effective classroom teachers.

174 (d) Produce leaders with the competencies and skills
 175 necessary to achieve the state's education goals.

176 (e) Sustain the state system of school improvement and
 177 education accountability.

178 (2) LEVEL I PROGRAMS.—

179 (a) Initial approval of a Level I program shall be for a
 180 period of 5 years. A postsecondary institution or school
 181 district may submit to the department in a format prescribed by
 182 the department an application to establish a Level I school

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183 leader preparation program. To be approved, a Level I program
 184 must:

185 1. Provide competency-based training aligned to the
 186 principal leadership standards adopted by the State Board of
 187 Education.

188 2. If the program is provided by a postsecondary
 189 institution, partner with at least one school district.

190 3. Describe the qualifications that will be used to
 191 determine program admission standards, including a candidate's
 192 instructional expertise and leadership potential.

193 4. Describe how the training provided through the program
 194 will be aligned to the personnel evaluation criteria under s.
 195 1012.34.

196 (b) Renewal of a Level I program's approval shall be for a
 197 period of 5 years and shall be based upon evidence of the
 198 program's continued ability to meet the requirements of
 199 paragraph (a). A postsecondary institution or school district
 200 must submit an institutional program evaluation plan in a format
 201 prescribed by the department for a Level I program to be
 202 considered for renewal. The plan must include:

203 1. The percentage of personnel who complete the program
 204 and are placed in school leadership positions in public schools
 205 within the state.

206 2. Results from the personnel evaluations required under
 207 s. 1012.34 for personnel who complete the program.

208 3. The passage rate of personnel who complete the program

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209 on the Florida Education Leadership Examination.

210 4. The impact personnel who complete the program have on
 211 student learning as measured by the formulas developed by the
 212 commissioner pursuant to s. 1012.34(7).

213 5. Strategies for continuous improvement of the program.

214 6. Strategies for involving personnel who complete the
 215 program, other school personnel, community agencies, business
 216 representatives, and other stakeholders in the program
 217 evaluation process.

218 7. Additional data included at the discretion of the
 219 postsecondary institution or school district.

220 (c) A Level I program must guarantee the high quality of
 221 personnel who complete the program for the first 2 years after
 222 program completion or the person's initial certification as a
 223 school leader, whichever occurs first. If a person who completed
 224 the program is evaluated at less than highly effective or
 225 effective under s. 1012.34 and the person's employer requests
 226 additional training, the Level I program must provide additional
 227 training at no cost to the person or his or her employer. The
 228 training must include the creation of an individualized plan
 229 agreed to by the employer that includes specific learning
 230 outcomes. The Level I program is not responsible for the
 231 person's employment contract with his or her employer.

232 (3) LEVEL II PROGRAMS.—Initial approval and subsequent
 233 renewal of a Level II program shall be for a period of 5 years.
 234 A school district may submit to the department in a format

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235 prescribed by the department an application to establish a Level
 236 II school leader preparation program or for program renewal. To
 237 be approved or renewed, a Level II program must:

238 (a) Demonstrate that personnel accepted into the Level II
 239 program have:

240 1. Obtained their certificate in educational leadership
 241 under s. 1012.56.

242 2. Earned a highly effective or effective designation under
 243 s. 1012.34.

244 3. Satisfactorily performed instructional leadership
 245 responsibilities as measured by the evaluation system in s.
 246 1012.34.

247 (b) Demonstrate that the Level II program:

248 1. Provides competency-based training aligned to the
 249 principal leadership standards adopted by the State Board of
 250 Education.

251 2. Provides training aligned to the personnel evaluation
 252 criteria under s. 1012.34 and professional development program
 253 in s. 1012.986.

254 3. Provides individualized instruction using a customized
 255 learning plan for each person enrolled in the program that is
 256 based on data from self-assessment, selection, and appraisal
 257 instruments.

258 4. Conducts program evaluations and implements program
 259 improvements using input from personnel who completed the
 260 program and employers and data gathered pursuant to paragraph

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261 (2) (b) .

262 (c) Gather and monitor the data specified in paragraph

263 (2) (b) .

264 (4) RULES.—The State Board of Education shall adopt rules
 265 to administer this section.

266 Section 7. Subsection (3) of section 1012.75, Florida
 267 Statutes, is amended to read:

268 1012.75 Liability of teacher or principal; excessive
 269 force.—

270 (3) The Department of Education shall administer an
 271 educator liability insurance program, as provided in the General
 272 Appropriations Act, to protect full-time instructional personnel
 273 from liability for monetary damages and the costs of defending
 274 actions resulting from claims made against the instructional
 275 personnel arising out of occurrences in the course of activities
 276 within the instructional personnel's professional capacity. For
 277 purposes of this subsection, the terms "full-time," "part-time,"
 278 and "administrative personnel" shall be defined by the
 279 individual district school board. For purposes of this
 280 subsection, the term "instructional personnel" has the same
 281 meaning as provided in s. 1012.01(2).

282 (a) Liability coverage of at least \$2 million shall be
 283 provided to all full-time instructional personnel. Liability
 284 coverage may be provided to the following individuals who choose
 285 to participate in the program, at cost: part-time instructional
 286 personnel, administrative personnel, and students enrolled in a

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287 state-approved teacher preparation program pursuant to s.
288 1012.39(3).

289 (b) By August 1 of each year, the department shall notify
290 the personnel specified in paragraph (a) of the pending
291 procurement for liability coverage. By September 1 of each year,
292 each district school board shall notify the personnel specified
293 in paragraph (a) of the liability coverage provided pursuant to
294 this subsection. The department shall develop the form of the
295 notice which shall be used by each district school board. The
296 notice must be on an 8 1/2-inch by 5 1/2-inch postcard and
297 include the amount of coverage, a general description of the
298 nature of the coverage, and the contact information for coverage
299 and claims questions. The notification shall be provided
300 separately from any other correspondence. Each district school
301 board shall certify to the department, by September 15 of each
302 year, that the notification required by this paragraph has been
303 provided.

304 (c) The department shall consult with the Department of
305 Financial Services to select the most economically prudent and
306 cost-effective means of implementing the program through self-
307 insurance, a risk management program, or competitive
308 procurement.

309 ~~(d) This subsection expires July 1, 2016.~~

310 Section 8. Subsection (1) of section 1012.79, Florida
311 Statutes, is amended to read:

312 1012.79 Education Practices Commission; organization.—

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313 (1) The Education Practices Commission is composed
 314 ~~consists of the following~~ 25 members: 10, ~~including 8~~ teachers;
 315 5 administrators, at least one of whom represents ~~shall~~
 316 ~~represent~~ a private or virtual school; 4 ~~7~~ lay citizens who are,
 317 ~~5 of whom shall be~~ parents of public school students and who are
 318 unrelated to public school employees; and 2 of whom shall be
 319 former charter school governing board or district school board
 320 members or former superintendents, assistant superintendents, or
 321 deputy superintendents; and 4 ~~5~~ sworn law enforcement officials,
 322 appointed by the State Board of Education from nominations by
 323 the Commissioner of Education and subject to Senate
 324 confirmation. Before ~~Prior to~~ making nominations, the
 325 commissioner shall consult with teaching associations, parent
 326 organizations, law enforcement agencies, and other involved
 327 associations in the state. In making nominations, the
 328 commissioner shall attempt to achieve equal geographical
 329 representation, as closely as possible.

330 (a) A teacher member, in order to be qualified for
 331 appointment:

- 332 1. Must be certified to teach in the state.
- 333 ~~2. Must be a resident of the state.~~
- 334 ~~2.3.~~ 2.3. Must have practiced the profession in this state for
 335 at least 5 years immediately preceding the appointment.

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

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338 1. Must have an endorsement on the educator certificate in
339 the area of school administration or supervision.

340 ~~2. Must be a resident of the state.~~

341 ~~2.3.~~ Must have practiced the profession as an
342 administrator for at least 5 years immediately preceding the
343 appointment.

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

345 ~~(c)~~ ~~(d)~~ The law enforcement official members must have
346 served in the profession for at least 5 years immediately
347 preceding appointment and have background expertise in child
348 safety.

349 (d) The Commissioner of Education, upon request or
350 recommendation from the commission, may also appoint up to 5
351 emeritus members from the commission's prior membership to serve
352 1-year terms. Notwithstanding any prior service on the
353 commission, an emeritus member may serve up to five 1-year
354 terms. An emeritus member serves as a voting member at a
355 discipline hearing and as a consulting but nonvoting member
356 during a business meeting.

357 (e) All members must be residents of the state.

358 Section 9. Subsection (3) of section 1012.796, Florida
359 Statutes, is amended to read:

360 1012.796 Complaints against teachers and administrators;
361 procedure; penalties.—

362 (3) The department staff shall advise the commissioner
363 concerning the findings of the investigation. The department

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364 general counsel or members of that staff shall review the
365 investigation and advise the commissioner concerning probable
366 cause or lack thereof. The determination of probable cause shall
367 be made by the commissioner. The commissioner shall provide an
368 opportunity for a conference, if requested, prior to determining
369 probable cause. The commissioner may enter into deferred
370 prosecution agreements in lieu of finding probable cause if, in
371 his or her judgment, such agreements are in the best interests
372 of the department, the certificateholder, and the public. Such
373 deferred prosecution agreements shall become effective when
374 filed with the clerk of the Education Practices Commission.
375 However, a deferred prosecution agreement may ~~shall~~ not be
376 entered into if there is probable cause to believe that a felony
377 or an act of moral turpitude, as defined by rule of the State
378 Board of Education, has occurred. Upon finding no probable
379 cause, the commissioner shall dismiss the complaint and may
380 issue a letter of guidance to the certificateholder.

381 Section 10. This act shall take effect July 1, 2016.