

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 1548

INTRODUCER: Education Committee and Senator Book

SUBJECT: K-12 Student Safety

DATE: February 5, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Androff</u>	<u>Graf</u>	<u>ED</u>	Fav/CS
2.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1548 modifies Florida law regarding educator certification requirements and district school board duties relating to school safety. Specifically, the bill:

- Expands the applicability of certain employment disqualification criteria to include all positions that require direct contact with students.
- Grants the Department of Education and the Education Practices Commission additional authority to enforce the educator certification requirements and impose penalties against persons who do not comply with certification requirements.
- Requires the holder of a Florida educator certification to agree to inform his or her employer within 48 hours if arrested for any disqualifying offense while employed in a position that requires the certification.
- Provides that persons employed as part-time teachers by the district school board are not exempt from the certification requirements for all school-based personnel.
- Specifies that an adjunct teaching certificate may not be used to fulfill the certification requirements for a person who is employed and renders service as an athletic coach in any public school in Florida.
- Requires an educator who has been placed on probation to immediately notify the investigative office in the DOE upon separation from employment in any public or private position requiring a Florida educator's certificate.

The bill takes effect July 1, 2018.

II. Present Situation:

Educator Certification Requirements

The purpose of Florida educator certification is to protect the educational interest of students, parents, and the public at large by assuring that Florida educators are professionally qualified for highly effective instruction.¹ The Legislature has established certification requirements to assure that educational personnel in public schools possess appropriate skills in reading, writing, and mathematics, and adequate pedagogical knowledge, including the use of technology to enhance student learning, and relevant subject matter competence so as to demonstrate an acceptable level of professional performance.² Further, the Legislature has established a certificate renewal process which promotes the continuing professional improvement of school personnel, thereby enhancing public education in all areas of the state.³

Florida law provides that a person who has been convicted of an offense specified in law is ineligible for educator certification, and instructional personnel and school administrators are ineligible for employment in any position that requires direct contact with students in a district school system, charter school, or private school that accepts certain state scholarship students.⁴

Florida law also requires each person who has obtained an educator certification to agree, under penalty of perjury, to inform his or her employer if convicted of any disqualifying offense while he or she is employed in a position for which such certification is required.⁵

Educator Discipline

The Education Practices Commission (Commission) is established in Florida law to interpret and apply the standards of professional practice established by the State Board of Education (SBE).⁶ At least once each year, the Commission must report to and meet with the SBE.⁷ The Commission is authorized to revoke or suspend a certificate or take other appropriate action as provided in law.⁸

Specifically, the Commission may take, revoke, or suspend the educator certification if the person:

- Obtained or attempted to obtain an educator certificate by fraudulent means.
- Knowingly failed to report actual or suspected child abuse or report alleged misconduct by instructional personnel or school administrators that affects the health, safety, or welfare of a student.
- Has proved to be incompetent to teach or perform duties as an employee of the public school system or to teach in or operate a private school.

¹ Section 1012.54, F.S.

² *Id.*

³ *Id.*

⁴ Section 1012.315(1), F.S.

⁵ Section 1012.56(10)(b), F.S.

⁶ Section 1012.79(7)(a), F.S. The SBE has established principles for professional conduct for the Education Profession in rule. Rule 6A-10.081, F.A.C.

⁷ Section 1012.79(7)(c), F.S.

⁸ Section 1012.79(7)(b), F.S.

- Has been guilty of gross immorality or an act involving moral turpitude as defined by SBE rule.
- Has had an educator certificate sanctioned by revocation, suspension, or surrender in another state.
- Has been convicted or found guilty of, or entered a plea of guilty to, regardless of adjudication of guilt, a misdemeanor, felony, or any other criminal charge, other than a minor traffic violation.⁹

Florida law provides that the Department of Education (DOE) may deny an applicant a certificate if the department possesses evidence satisfactory to it that the applicant has committed an act or acts, or that a situation exists, for which the Education Practices Commission would be authorized to revoke a teaching certificate.¹⁰ The decision of the DOE is subject to review by the Education Practices Commission upon the filing of a written request from the applicant within 20 days after receipt of notice of denial.¹¹

Educator Certification Reporting Requirements

Each district school superintendent and the governing authority of each university lab school, state-supported school, private school, and the Florida High School Athletic Association must report to the DOE the name of any Florida certified educator who:

- Has been convicted of, or who has pled nolo contendere to, a misdemeanor, felony, or any other criminal charge, other than a minor traffic infraction;
- That official has reason to believe has committed, or is found to have committed, any act which would be a ground for revocation or suspension of a Florida Educator Certification;
- Has been dismissed or severed from employment because of conduct involving any immoral, unnatural, or lascivious act.¹²

Part-time Teachers

Florida law authorizes district school boards to hire certified and qualified personnel to teach a specified number of periods, which may be less than a full school day or less than a full school year.¹³ The district school board must adopt rules to allow for the issuance of an adjunct teaching certificate to any applicant who meets specified eligibility requirements¹⁴ and who has expertise in the subject area to be taught. The adjunct teaching certificate shall be used for part-time teaching positions.¹⁵

District School Board Duties Relating to Student Discipline and School Safety

A district school board is responsible for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to the health, safety, and

⁹ Section 1012.795(1), F.S.

¹⁰ Section 1012.56(12)(a), F.S.

¹¹ Section 1012.56(12)(b), F.S.

¹² Section 1012.795(5), F.S.

¹³ Section 1012.36(1), F.S.

¹⁴ Section 1012.57(1), F.S.

¹⁵ *Id.*

welfare of students.¹⁶ Specifically, a district school board must use the Safety and Security Best Practices developed by the Office of Program Policy Analysis and Government Accountability to conduct a self-assessment of the school districts' current safety and security practices.¹⁷ Based on these self-assessment findings, the district school superintendent must provide recommendations to the district school board which identify strategies and activities that the district school board should implement in order to improve school safety and security.¹⁸ Annually, each district school board must receive the self-assessment results at a publicly noticed district school board meeting to provide the public an opportunity to hear the district school board members discuss and take action on the report findings.¹⁹ Each district superintendent must report the self-assessment results and school board action to the commissioner within 30 days.²⁰

III. Effect of Proposed Changes:

The bill modifies Florida law regarding educator certification requirements and district school board duties relating to school safety. Specifically, the bill:

- Expands the applicability of certain employment disqualification criteria to include all positions that require direct contact with students.
- Grants the Department of Education and the Education Practices Commission with additional authority to enforce the educator certification requirements and impose penalties against persons who do not comply with certification requirements.
- Requires the holder of a Florida educator certification to agree to inform his or her employer within 48 hours if arrested for any disqualifying offense while employed in a position that requires the certification.
- Provides that persons employed as part-time teachers by the district school board are not exempt from the certification requirements for all school-based personnel.
- Specifies that an adjunct teaching certificate may not be used to fulfill the certification requirements for a person who is employed and renders service as an athletic coach in any public school in Florida.
- Requires an educator who has been placed on probation to immediately notify the investigative office in the DOE upon separation from employment in any public or private position requiring a Florida educator's certificate.

Educator Certification Requirements

The bill amends s. 1012.315, F.S., to expand the conditions for disqualification from employment to clarify that if a person has been convicted of an offense specified in law, the person is ineligible for educator certification or employment in any position that requires direct contact with students in a district school system, charter school, or private school that accepts specified state scholarship students. Accordingly, these changes may assist the school districts with their efforts to maintain a safe learning environment for students. The bill also modifies s. 1012.56, F.S., to require the holder of a Florida educator certification to agree to inform his or her employer within 48 hours if *arrested* for any disqualifying offense while employed in a

¹⁶ Section 1006.07, F.S.

¹⁷ Section 1006.07(6), F.S.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

position that requires the certification. Current s. 1012.56, F.S., requires an educator certificate holder to provide such information if he or she is *convicted* of any disqualifying offense while employed in a position that requires the certification.

Educator Discipline

The bill amends s. 1012.795, F.S., to authorize the Education Practices Commission (Commission) to *deny* an application for certification in addition to the Commission's existing authority to *suspend* an educator certificate of any educator certificate holder. The bill modifies the conditions under which the Commission is authorized to take disciplinary action to provide that the Commission is authorized to discipline a person who:

- Has had any professional license sanctioned by Florida or any other state, or has had the authority to practice the regulated profession revoked, suspended, or otherwise acted against, including a denial of certification or licensure, by the licensing or certifying authority of any jurisdiction, including its agencies and subdivision. The licensing or certifying authority's acceptance of a relinquishment, stipulation, consent order, other settlement offered in response to or in anticipation of the filing of charges against the licensee or certificateholder shall be construed as action against the license or certificate.
- Regardless of adjudication, has been convicted or found guilty of, or entered a plea of guilty or nolo contendere to a misdemeanor, a felony, or any other criminal charge other than a minor traffic violation.
- Has violated test security rules as provided in law.²¹

The authorization to *deny* an application for certification also applies to existing conditions under which the Commission is authorized to take disciplinary action.²²

The bill amends s. 1012.56, F.S., to authorize the DOE to deny an applicant a certificate if DOE possesses evidence satisfactory to it that the applicant has committed, or that a situation exists for which the Education Practices Commission would be authorized to discipline a certified educator. As provided in current law, the decision of the DOE is reviewable upon the filing of a written request from the applicant within 20 days after receipt of notice of denial.²³ The bill provides that, upon review of the DOE's decision, the Commission may impose one or more of the following penalties:

- Denial of an application.
- Bar from reapplication.
- Probation for a period of time.
- Restriction of the scope of practice.
- Issuance of a letter of reprimand.
- Referral of the teacher, administrator, or supervisor to the recovery network program under such terms and conditions as the commission may specify.
- An administrative fine not to exceed \$2,000 for each count or separate offense.

²¹ Section 1008.24, F.S., specifies the test administration and security rules.

²² See s. 1012.795(1), F.S.

²³ *Supra*, n. 11.

The bill amends s. 1011.62, F.S., to provide that a teacher may not be awarded a Career and Professional Education (CAPE) industry certification bonus if the teacher fails to maintain the security of any CAPE industry certification examination or otherwise violates the security or administration protocol of any assessment instrument that may result in a bonus being awarded to the teacher. Additionally, the bill authorizes the SBE to adopt rules to establish the criteria under which a student's industry certification or grade may be rescinded.

Accordingly, the bill provides the DOE and the Commission with additional authority to enforce the educator certification requirements and impose penalties against persons who do not comply with the specified certification requirements.

Educator Certification Reporting Requirements

The bill amends s. 1012.795, F.S., to modify the information that each district school superintendent and the governing authority of each university lab school, state-supported school, private school and the Florida High School Athletic Association must report to the DOE to add the name of any educator certificateholder who has been found *guilty of*, who has had *adjudication withheld*, or who has *pled guilty* to a misdemeanor, a felony, or any other criminal charge, other than a minor traffic infraction. These changes may assist the school districts with their efforts to maintain a safe learning environment for students.

Part-time Teachers

The bill amends s. 1012.36, F.S., to specify that persons employed as part-time teachers by the district school board are not exempt from the certification requirements for all school-based personnel. The bill amends s. 1012.57, F.S., to provide that an adjunct teaching certificate may not be used to fulfill the certification requirements for a person who is employed and renders service as an athletic coach in any public school in any district in Florida.

These changes may require certain persons currently employed as part-time teachers by district school boards to comply with certification requirements. Accordingly, any current athletic coaches with an adjunct teaching certificate, to meet the educator certification requirement, must satisfy the educator certification requirements specified in law.

District School Board Duties Relating to Student Discipline and School Safety

The bill amends s. 1006.07, F.S., to require each school district to conduct a security risk assessment at each public school and conduct a self-assessment of the school districts' current safety and security practices using a format prescribed by the DOE. The bill also deletes an outdated reference in current law to the Safety and Security Best Practices developed by the Office of Program Policy Analysis and Government Accountability.²⁴ The bill also provides that the school board must receive the findings of the required assessments and the superintendent's recommendations at a publicly noticed district school board meeting. Consequently, the public may be informed about school districts' safety and security practices.

²⁴ In 2014, the Legislature repealed the Best Financial Management Practices Review that authorized the Office of Program Policy Analysis and Government Accountability to develop best practices. Section 76, ch. 2014-39, L.O.F.

Notification by Educator on Probation

Currently, s. 1012.796, F.S., requires an educator who has been placed on probation to immediately notify the investigative office in the DOE upon employment or termination of employment in the state in any public or private position requiring a Florida educator's certification. The bill does not delete reference to "employment" but modifies the reference to "termination of employment in the state" to specify "separation from employment." Therefore, the educator on probation must immediately notify the investigative office in the DOE upon separation from employment in any public or private position requiring a Florida educator's certificate.

The bill takes effect July 1, 2018.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1006.07, 1011.62, 1012.315, 1012.36, 1012.56, 1012.57, 1012.795, and 1012.796.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education on January 22, 2018:

The committee substitute removes from the bill the provision that exempted from background screening employees of the Division of Vocational Rehabilitation who work as service providers for the school district.

- B. **Amendments:**

None.