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LEGISLATIVE ACTION

Senate

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House

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Floor: 1b/RE/2R

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03/07/2018 03:00 PM

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Senator Book moved the following:

1 **Senate Amendment to Amendment (149500) (with title**
2 **amendment)**

3
4 Between lines 115 and 116
5 insert:

6 Section 2. Section 800.101, Florida Statutes, is created to
7 read:

8 800.101 Offenses against students by authority figures.-

9 (1) As used in this section, the term:

10 (a) "Authority figure" means a person 18 years of age or
11 older who is employed by, volunteering at, or under contract



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12 with a school, including school resource officers as provided in
13 s. 1006.12.

14 (b) "School" has the same meaning as provided in s. 1003.01
15 and includes a private school as defined in s. 1002.01, a
16 voluntary prekindergarten education program as described in s.
17 1002.53(3), early learning programs, a public school as
18 described in s. 402.3025(1), the Florida School for the Deaf and
19 the Blind, and the Florida Virtual School established under s.
20 1002.37. The term does not include a facility dedicated
21 exclusively to the education of adults.

22 (c) "Student" means a person who is enrolled at a school.

23 (2) An authority figure shall not solicit or engage in:

24 (a) Sexual conduct;

25 (b) A relationship of a romantic nature; or

26 (c) Lewd conduct

27
28 with a student.

29 (3) A person who violates this section commits a felony of
30 the second degree, punishable as provided in s. 775.082, s.
31 775.083, or s. 775.084.

32 (4) This section does not apply to conduct constituting an
33 offense that is subject to reclassification under s. 775.0862.

34 Section 3. Subsection (5) of section 810.097, Florida
35 Statutes, is amended to read:

36 810.097 Trespass upon grounds or facilities of a school;
37 penalties; arrest.—

38 (5) As used in this section, the term "school" means the
39 grounds or any facility, including school buses, of any
40 kindergarten, elementary school, middle school, junior high



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41 school, or secondary school, whether public or nonpublic.

42 Section 4. Subsection (6) and paragraph (b) of subsection
43 (7) of section 1001.42, Florida Statutes, are amended to read:

44 1001.42 Powers and duties of district school board.—The
45 district school board, acting as a board, shall exercise all
46 powers and perform all duties listed below:

47 (6) STANDARDS OF ETHICAL CONDUCT FOR INSTRUCTIONAL
48 PERSONNEL AND SCHOOL ADMINISTRATORS.—Adopt policies establishing
49 standards of ethical conduct for instructional personnel and
50 school administrators. The policies must require all
51 instructional personnel and school administrators, as defined in
52 s. 1012.01, to complete training on the standards; establish the
53 duty of instructional personnel and school administrators to
54 report, and procedures for reporting, alleged misconduct by
55 other instructional personnel and school administrators which
56 affects the health, safety, or welfare of a student, including
57 misconduct that involves engaging in or soliciting sexual,
58 romantic, or lewd conduct with a student; require the district
59 school superintendent to report to law enforcement misconduct by
60 instructional personnel or school administrators that would
61 result in disqualification from educator certification or
62 employment as provided in s. 1012.315; and include an
63 explanation of the liability protections provided under ss.
64 39.203 and 768.095. A district school board, or any of its
65 employees, may not enter into a confidentiality agreement
66 regarding terminated or dismissed instructional personnel or
67 school administrators, or personnel or administrators who resign
68 in lieu of termination, based in whole or in part on misconduct
69 that affects the health, safety, or welfare of a student, and



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70 may not provide instructional personnel or school administrators
71 with employment references or discuss the personnel's or
72 administrators' performance with prospective employers in
73 another educational setting, without disclosing the personnel's
74 or administrators' misconduct. Any part of an agreement or
75 contract that has the purpose or effect of concealing misconduct
76 by instructional personnel or school administrators which
77 affects the health, safety, or welfare of a student is void, is
78 contrary to public policy, and may not be enforced.

79 (7) DISQUALIFICATION FROM EMPLOYMENT.—Disqualify
80 instructional personnel and school administrators, as defined in
81 s. 1012.01, from employment in any position that requires direct
82 contact with students if the personnel or administrators are
83 ineligible for such employment under s. 1012.315. An elected or
84 appointed school board official forfeits his or her salary for 1
85 year if:

86 (b) The school board official knowingly fails to adopt
87 policies that require:

88 1. Instructional personnel and school administrators to
89 report alleged misconduct by other instructional personnel and
90 school administrators;

91 2. The district school superintendent to report misconduct
92 by instructional personnel or school administrators that would
93 result in disqualification from educator certification or
94 employment as provided in s. 1012.315 to the law enforcement
95 agencies with jurisdiction over the conduct; or

96 3. ~~that require~~ The investigation of all reports of alleged
97 misconduct by instructional personnel and school administrators,
98 if the misconduct affects the health, safety, or welfare of a



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99 student.

100 Section 5. Subsection (12) of section 1001.51, Florida
101 Statutes, is amended to read:

102 1001.51 Duties and responsibilities of district school
103 superintendent.—The district school superintendent shall
104 exercise all powers and perform all duties listed below and
105 elsewhere in the law, provided that, in so doing, he or she
106 shall advise and counsel with the district school board. The
107 district school superintendent shall perform all tasks necessary
108 to make sound recommendations, nominations, proposals, and
109 reports required by law to be acted upon by the district school
110 board. All such recommendations, nominations, proposals, and
111 reports by the district school superintendent shall be either
112 recorded in the minutes or shall be made in writing, noted in
113 the minutes, and filed in the public records of the district
114 school board. It shall be presumed that, in the absence of the
115 record required in this section, the recommendations,
116 nominations, and proposals required of the district school
117 superintendent were not contrary to the action taken by the
118 district school board in such matters.

119 (12) RECORDS AND REPORTS.—Recommend such records as should
120 be kept in addition to those prescribed by rules of the State
121 Board of Education; prepare forms for keeping such records as
122 are approved by the district school board; ensure that such
123 records are properly kept; and make all reports that are needed
124 or required, as follows:

125 (a) *Forms, blanks, and reports.*—Require that all employees
126 accurately keep all records and promptly make in proper form all
127 reports required by the education code or by rules of the State



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128 Board of Education; recommend the keeping of such additional
129 records and the making of such additional reports as may be
130 deemed necessary to provide data essential for the operation of
131 the school system; and prepare such forms and blanks as may be
132 required and ensure that these records and reports are properly
133 prepared.

134 (b) *Reports to the department.*—Prepare, for the approval of
135 the district school board, all reports required by law or rules
136 of the State Board of Education to be made to the department and
137 transmit promptly all such reports, when approved, to the
138 department, as required by law. If any reports are not
139 transmitted at the time and in the manner prescribed by law or
140 by State Board of Education rules, the salary of the district
141 school superintendent must be withheld until the report has been
142 properly submitted. Unless otherwise provided by rules of the
143 State Board of Education, the annual report on attendance and
144 personnel is due on or before July 1, and the annual school
145 budget and the report on finance are due on the date prescribed
146 by the commissioner.

147
148 Any district school superintendent who knowingly signs and
149 transmits to any state official a report that the superintendent
150 knows to be false or incorrect; who knowingly fails to
151 investigate any allegation of misconduct by instructional
152 personnel or school administrators, as defined in s. 1012.01,
153 which affects the health, safety, or welfare of a student; ~~or~~
154 who knowingly fails to report the alleged misconduct to the
155 department as required in s. 1012.796; or who knowingly fails to
156 report misconduct to the law enforcement agencies with



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157 jurisdiction over the conduct pursuant to district school board
158 policy under s. 1001.42(6), forfeits his or her salary for 1
159 year following the date of such act or failure to act.

160 Section 6. Subsections (5) and (6) of section 1012.27,
161 Florida Statutes, are amended to read:

162 1012.27 Public school personnel; powers and duties of
163 district school superintendent.—The district school
164 superintendent is responsible for directing the work of the
165 personnel, subject to the requirements of this chapter, and in
166 addition the district school superintendent shall perform the
167 following:

168 (5) SUSPENSION AND DISMISSAL; NOTIFICATION.—

169 (a) Suspend members of the instructional staff and other
170 school employees during emergencies for a period extending to
171 and including the day of the next regular or special meeting of
172 the district school board and notify the district school board
173 immediately of such suspension. When authorized to do so, serve
174 notice on the suspended member of the instructional staff of
175 charges made against him or her and of the date of hearing.
176 Recommend employees for dismissal under the terms prescribed
177 herein.

178 (b) Notify the parent of a student who was subjected to or
179 affected by misconduct identified under s. 1001.42(6) within 30
180 days after the date on which the school district learns of the
181 misconduct. The notification must inform the parent of:

182 1. The alleged misconduct, including which allegations have
183 been substantiated, if any.

184 2. Whether the district reported the misconduct to the
185 department, if required by s. 1012.796(1)(d).



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186 3. The sanctions imposed by the school district against the
187 employee, if any.

188 4. The support the school district will make available to
189 the student in response to the misconduct.

190 (6) EMPLOYMENT HISTORY CHECKS.—Before employing a person
191 ~~instructional personnel and school administrators, as defined in~~
192 ~~s. 1012.01,~~ in any position that requires direct contact with
193 students, conduct employment history checks of each of the
194 person's ~~personnel's or administrators'~~ previous employers,
195 screen instructional the personnel and school ~~or~~ administrators,
196 as defined in s. 1012.01, through use of the educator screening
197 tools described in s. 1001.10(5), and document the findings. If
198 unable to contact a previous employer, the district school
199 superintendent shall document efforts to contact the employer.

200 Section 6. Paragraph (a) of subsection (2) and paragraph
201 (a) of subsection (3) of section 1012.31, Florida Statutes, are
202 amended to read:

203 1012.31 Personnel files.—Public school system employee
204 personnel files shall be maintained according to the following
205 provisions:

206 (2) (a) Materials relating to work performance, discipline,
207 suspension, or dismissal must be reduced to writing and signed
208 by a person competent to know the facts or make the judgment.
209 The resignation or termination of an employee before an
210 investigation of alleged misconduct by the employee affecting
211 the health, safety, or welfare of a student is concluded must be
212 clearly indicated in the employee's personnel file.

213 (3) (a) Public school system employee personnel files are
214 subject to the provisions of s. 119.07(1), except as follows:



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215 1. Any complaint and any material relating to the
216 investigation of a complaint against an employee shall be
217 confidential and exempt from the provisions of s. 119.07(1)
218 until the conclusion of the preliminary investigation or until
219 such time as the preliminary investigation ceases to be active.
220 If the preliminary investigation is concluded with the finding
221 that there is no probable cause to proceed further and with no
222 disciplinary action taken or charges filed, a statement to that
223 effect signed by the responsible investigating official shall be
224 attached to the complaint, and the complaint and all such
225 materials shall be open thereafter to inspection pursuant to s.
226 119.07(1). If the preliminary investigation is concluded with
227 the finding that there is probable cause to proceed further or
228 with disciplinary action taken or charges filed, the complaint
229 and all such materials shall be open thereafter to inspection
230 pursuant to s. 119.07(1). If the preliminary investigation
231 ceases to be active, the complaint and all such materials shall
232 be open thereafter to inspection pursuant to s. 119.07(1). For
233 the purpose of this subsection, a preliminary investigation
234 shall be considered active as long as it is continuing with a
235 reasonable, good faith anticipation that an administrative
236 finding will be made in the foreseeable future. An investigation
237 shall be presumed to be inactive if no finding relating to
238 probable cause is made within 60 days after the complaint is
239 made. This subparagraph does not absolve the school district of
240 its duty to provide any legally sufficient complaint to the
241 department within 30 days after the date on which the subject
242 matter of the complaint comes to the attention of the school
243 district pursuant to s. 1012.796(1)(d)1., regardless of the



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244 status of the complaint.

245 2. An employee evaluation prepared pursuant to s. 1012.33,
246 s. 1012.34, or s. 1012.56 or rules adopted by the State Board of
247 Education or district school board under the authority of those
248 sections shall be confidential and exempt from the provisions of
249 s. 119.07(1) until the end of the school year immediately
250 following the school year in which the evaluation was made. No
251 evaluation prepared before July 1, 1983, shall be made public
252 pursuant to this section.

253 3. No material derogatory to an employee shall be open to
254 inspection until 10 days after the employee has been notified
255 pursuant to paragraph (2) (c).

256 4. The payroll deduction records of an employee shall be
257 confidential and exempt from the provisions of s. 119.07(1).

258 5. Employee medical records, including psychiatric and
259 psychological records, shall be confidential and exempt from the
260 provisions of s. 119.07(1); however, at any hearing relative to
261 the competency or performance of an employee, the administrative
262 law judge, hearing officer, or panel shall have access to such
263 records.

264 Section 7. Section 1012.315, Florida Statutes, is amended
265 to read:

266 1012.315 Disqualification from employment.—A person is
267 ineligible for educator certification or, ~~and instructional~~
268 ~~personnel and school administrators, as defined in s. 1012.01,~~
269 ~~are ineligible for~~ employment in any position that requires
270 direct contact with students in a district school system,
271 charter school, or private school that accepts scholarship
272 students under s. 1002.39 or s. 1002.395, if the person,



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273 ~~instructional personnel, or school administrator~~ has been
274 convicted of:

275 (1) Any felony offense prohibited under any of the
276 following statutes:

277 (a) Section 393.135, relating to sexual misconduct with
278 certain developmentally disabled clients and reporting of such
279 sexual misconduct.

280 (b) Section 394.4593, relating to sexual misconduct with
281 certain mental health patients and reporting of such sexual
282 misconduct.

283 (c) Section 415.111, relating to adult abuse, neglect, or
284 exploitation of aged persons or disabled adults.

285 (d) Section 782.04, relating to murder.

286 (e) Section 782.07, relating to manslaughter, aggravated
287 manslaughter of an elderly person or disabled adult, aggravated
288 manslaughter of a child, or aggravated manslaughter of an
289 officer, a firefighter, an emergency medical technician, or a
290 paramedic.

291 (f) Section 784.021, relating to aggravated assault.

292 (g) Section 784.045, relating to aggravated battery.

293 (h) Section 784.075, relating to battery on a detention or
294 commitment facility staff member or a juvenile probation
295 officer.

296 (i) Section 787.01, relating to kidnapping.

297 (j) Section 787.02, relating to false imprisonment.

298 (k) Section 787.025, relating to luring or enticing a
299 child.

300 (l) Section 787.04(2), relating to leading, taking,
301 enticing, or removing a minor beyond the state limits, or



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302 concealing the location of a minor, with criminal intent pending
303 custody proceedings.

304 (m) Section 787.04(3), relating to leading, taking,
305 enticing, or removing a minor beyond the state limits, or
306 concealing the location of a minor, with criminal intent pending
307 dependency proceedings or proceedings concerning alleged abuse
308 or neglect of a minor.

309 (n) Section 790.115(1), relating to exhibiting firearms or
310 weapons at a school-sponsored event, on school property, or
311 within 1,000 feet of a school.

312 (o) Section 790.115(2)(b), relating to possessing an
313 electric weapon or device, destructive device, or other weapon
314 at a school-sponsored event or on school property.

315 (p) Section 794.011, relating to sexual battery.

316 (q) Former s. 794.041, relating to sexual activity with or
317 solicitation of a child by a person in familial or custodial
318 authority.

319 (r) Section 794.05, relating to unlawful sexual activity
320 with certain minors.

321 (s) Section 794.08, relating to female genital mutilation.

322 (t) Chapter 796, relating to prostitution.

323 (u) Chapter 800, relating to lewdness and indecent
324 exposure.

325 (v) Section 800.101, relating to offenses against students
326 by authority figures.

327 (w) ~~(v)~~ Section 806.01, relating to arson.

328 (x) ~~(w)~~ Section 810.14, relating to voyeurism.

329 (y) ~~(x)~~ Section 810.145, relating to video voyeurism.

330 (z) ~~(y)~~ Section 812.014(6), relating to coordinating the



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331 commission of theft in excess of \$3,000.
332 ~~(aa)~~~~(z)~~ Section 812.0145, relating to theft from persons 65
333 years of age or older.
334 ~~(bb)~~~~(aa)~~ Section 812.019, relating to dealing in stolen
335 property.
336 ~~(cc)~~~~(bb)~~ Section 812.13, relating to robbery.
337 ~~(dd)~~~~(ee)~~ Section 812.131, relating to robbery by sudden
338 snatching.
339 ~~(ee)~~~~(dd)~~ Section 812.133, relating to carjacking.
340 ~~(ff)~~~~(ee)~~ Section 812.135, relating to home-invasion
341 robbery.
342 ~~(gg)~~~~(ff)~~ Section 817.563, relating to fraudulent sale of
343 controlled substances.
344 ~~(hh)~~~~(gg)~~ Section 825.102, relating to abuse, aggravated
345 abuse, or neglect of an elderly person or disabled adult.
346 ~~(ii)~~~~(hh)~~ Section 825.103, relating to exploitation of an
347 elderly person or disabled adult.
348 ~~(jj)~~~~(ii)~~ Section 825.1025, relating to lewd or lascivious
349 offenses committed upon or in the presence of an elderly person
350 or disabled person.
351 ~~(kk)~~~~(jj)~~ Section 826.04, relating to incest.
352 ~~(ll)~~~~(kk)~~ Section 827.03, relating to child abuse,
353 aggravated child abuse, or neglect of a child.
354 ~~(mm)~~~~(ll)~~ Section 827.04, relating to contributing to the
355 delinquency or dependency of a child.
356 ~~(nn)~~~~(mm)~~ Section 827.071, relating to sexual performance by
357 a child.
358 ~~(oo)~~~~(nn)~~ Section 843.01, relating to resisting arrest with
359 violence.



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360 (pp)~~(oo)~~ Chapter 847, relating to obscenity.
361 (qq)~~(pp)~~ Section 874.05, relating to causing, encouraging,
362 soliciting, or recruiting another to join a criminal street
363 gang.
364 (rr)~~(qq)~~ Chapter 893, relating to drug abuse prevention and
365 control, if the offense was a felony of the second degree or
366 greater severity.
367 (ss)~~(rr)~~ Section 916.1075, relating to sexual misconduct
368 with certain forensic clients and reporting of such sexual
369 misconduct.
370 (tt)~~(ss)~~ Section 944.47, relating to introduction, removal,
371 or possession of contraband at a correctional facility.
372 (uu)~~(tt)~~ Section 985.701, relating to sexual misconduct in
373 juvenile justice programs.
374 (vv)~~(uu)~~ Section 985.711, relating to introduction,
375 removal, or possession of contraband at a juvenile detention
376 facility or commitment program.
377 (2) Any misdemeanor offense prohibited under any of the
378 following statutes:
379 (a) Section 784.03, relating to battery, if the victim of
380 the offense was a minor.
381 (b) Section 787.025, relating to luring or enticing a
382 child.
383 (3) Any criminal act committed in another state or under
384 federal law which, if committed in this state, constitutes an
385 offense prohibited under any statute listed in subsection (1) or
386 subsection (2).
387 (4) Any delinquent act committed in this state or any
388 delinquent or criminal act committed in another state or under



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389 federal law which, if committed in this state, qualifies an
390 individual for inclusion on the Registered Juvenile Sex Offender
391 List under s. 943.0435(1)(h)1.d.

392 Section 7. Subsection (12) of section 1012.56, Florida
393 Statutes, is amended to read:

394 1012.56 Educator certification requirements.—

395 (12) DENIAL OF CERTIFICATE.—

396 (a) The Department of Education may deny an applicant a
397 certificate if the department possesses evidence satisfactory to
398 it that the applicant has committed an act or acts, or that a
399 situation exists, for which the Education Practices Commission
400 would be authorized to discipline a certified educator ~~revoke a~~
401 ~~teaching certificate.~~

402 (b) The decision of the department is subject to review by
403 the Education Practices Commission upon the filing of a written
404 request from the applicant within 20 days after receipt of the
405 notice of denial. Upon review, the commission may deny the award
406 of a certificate, bar an applicant from reapplying for a
407 certificate, or allow the award of a certificate with one or
408 more of the following conditions:

409 1. Probation for a period of time.

410 2. Restriction on the scope of practice.

411 3. Issuance of a letter of reprimand.

412 4. Referral to the recovery network program provided in s.
413 1012.798 under such terms and conditions as the commission may
414 specify.

415 5. Imposition of an administrative fine not to exceed
416 \$2,000 for each count or separate offense.

417 Section 8. Subsections (1) and (5) of section 1012.795,



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418 Florida Statutes, are amended to read:

419 1012.795 Education Practices Commission; authority to
420 discipline.—

421 (1) The Education Practices Commission may suspend the
422 educator certificate of any instructional personnel or school
423 administrator, ~~person~~ as defined in s. 1012.01(2) or (3), for up
424 to 5 years, thereby denying that person the right to teach or
425 otherwise be employed by a district school board or public
426 school in any capacity requiring direct contact with students
427 for that period of time, after which the person holder may
428 return to teaching as provided in subsection (4); may revoke the
429 educator certificate of any person, thereby denying that person
430 the right to teach or otherwise be employed by a district school
431 board or public school in any capacity requiring direct contact
432 with students for up to 10 years, with reinstatement subject to
433 ~~the provisions of~~ subsection (4); may permanently revoke
434 ~~permanently~~ the educator certificate of any person thereby
435 denying that person the right to teach or otherwise be employed
436 by a district school board or public school in any capacity
437 requiring direct contact with students; may suspend a person's
438 ~~the~~ educator certificate, upon an order of the court or notice
439 by the Department of Revenue relating to the payment of child
440 support; or may impose any other penalty provided by law, if the
441 person:

442 (a) Obtained or attempted to obtain an educator certificate
443 by fraudulent means.

444 (b) Knowingly failed to report actual or suspected child
445 abuse as required in s. 1006.061 or report alleged misconduct by
446 instructional personnel or school administrators which affects



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447 the health, safety, or welfare of a student as required in s.
448 1012.796.

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

452 (d) Has been guilty of gross immorality or an act involving
453 moral turpitude as defined by rule of the State Board of
454 Education, including engaging in or soliciting sexual, romantic,
455 or lewd conduct with a student or minor.

456 (e) Has had an educator certificate or other professional
457 license sanctioned by this or any other revocation, suspension,
458 or surrender in another state or has had the authority to
459 practice the regulated profession revoked, suspended, or
460 otherwise acted against, including a denial of certification or
461 licensure, by the licensing or certifying authority of any
462 jurisdiction, including its agencies and subdivisions. The
463 licensing or certifying authority's acceptance of a
464 relinquishment, stipulation, consent order, or other settlement
465 offered in response to or in anticipation of the filing of
466 charges against the licensee or certificateholder shall be
467 construed as action against the license or certificate. For
468 purposes of this section, a sanction or action against a
469 professional license, a certificate, or an authority to practice
470 a regulated profession must relate to being an educator or the
471 fitness of or ability to be an educator.

472 (f) Has been convicted or found guilty of, has had
473 adjudication withheld for, or has pled entered a plea of guilty
474 or nolo contendere to, regardless of adjudication of guilt, a
475 misdemeanor, felony, or any other criminal charge, other than a



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476 minor traffic violation.

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

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

482 (i) Has been the subject of a court order or notice by the
483 Department of Revenue pursuant to s. 409.2598 directing the
484 Education Practices Commission to suspend the certificate as a
485 result of noncompliance with a child support order, a subpoena,
486 an order to show cause, or a written agreement with the
487 Department of Revenue.

488 (j) Has violated the Principles of Professional Conduct for
489 the Education Profession prescribed by State Board of Education
490 rules.

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

493 (l) Has violated any order of the Education Practices
494 Commission.

495 (m) Has been the subject of a court order or plea agreement
496 in any jurisdiction which requires the certificateholder to
497 surrender or otherwise relinquish his or her educator's
498 certificate. A surrender or relinquishment shall be for
499 permanent revocation of the certificate. A person may not
500 surrender or otherwise relinquish his or her certificate prior
501 to a finding of probable cause by the commissioner as provided
502 in s. 1012.796.

503 (n) Has been disqualified from educator certification under
504 s. 1012.315.



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

508 (p) Has violated test security as provided in s. 1008.24.

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

514 (a) Who has been convicted or found guilty of, who has had
515 adjudication withheld for, or who has pled guilty or nolo
516 contendere to, a misdemeanor, felony, or any other criminal
517 charge, other than a minor traffic infraction;

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

521 (c) Who has been dismissed or severed from employment
522 because of conduct involving any immoral, unnatural, or
523 lascivious act.

524 Section 10. Paragraphs (d) and (e) of subsection (1) and
525 paragraphs (a) and (d) of subsection (7) of section 1012.796,
526 Florida Statutes, are amended to read:

527 1012.796 Complaints against teachers and administrators;
528 procedure; penalties.-

529 (1)

530 (d)1. Each school district shall file in writing with the
531 department all legally sufficient complaints within 30 days
532 after the date on which subject matter of the complaint comes to
533 the attention of the school district, regardless of whether the



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534 subject of the complaint is still an employee of the school
535 district. A complaint is legally sufficient if it contains
536 ultimate facts that show a violation has occurred as provided in
537 s. 1012.795 and defined by rule of the State Board of Education.
538 The school district shall include all information relating to
539 the complaint which is known to the school district at the time
540 of filing.

541 2. A school district shall immediately notify the
542 department if the subject of a legally sufficient complaint of
543 misconduct affecting the health, safety, or welfare of a student
544 resigns or is terminated before the conclusion of the school
545 district's investigation. Upon receipt of the notification, the
546 department shall place an alert on the person's certification
547 file indicating that he or she resigned or was terminated before
548 an investigation involving allegations of misconduct affecting
549 the health, safety, or welfare of a student was concluded. In
550 such circumstances, the database may not include specific
551 information relating to the alleged misconduct until permitted
552 by subsection (4).

553 3. Each district school board shall develop and adopt
554 policies and procedures to comply with this reporting
555 requirement. School board policies and procedures must include
556 standards for screening, hiring, and terminating instructional
557 personnel and school administrators, as defined in s. 1012.01;
558 standards of ethical conduct for instructional personnel and
559 school administrators; the duties of instructional personnel and
560 school administrators for upholding the standards; detailed
561 procedures for reporting alleged misconduct by instructional
562 personnel and school administrators which affects the health,



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563 safety, or welfare of a student; requirements for the
564 reassignment of instructional personnel or school administrators
565 pending the outcome of a misconduct investigation; and penalties
566 for failing to comply with s. 1001.51 or s. 1012.795. The
567 district school board policies and procedures shall include
568 appropriate penalties for all personnel of the district school
569 board for nonreporting and procedures for promptly informing the
570 district school superintendent of each legally sufficient
571 complaint. The district school superintendent is charged with
572 knowledge of these policies and procedures and is accountable
573 for the training of all instructional personnel and school
574 administrators of the school district on the standards of
575 ethical conduct, policies, and procedures.

576 4. If the district school superintendent has knowledge of a
577 legally sufficient complaint and does not report the complaint,
578 or fails to enforce the policies and procedures of the district
579 school board, and fails to comply with the requirements of this
580 subsection, in addition to other actions against
581 certificateholders authorized by law, the district school
582 superintendent is subject to penalties as specified in s.
583 1001.51(12).

584 5. If the superintendent determines that misconduct by
585 instructional personnel or school administrators who hold an
586 educator certificate affects the health, safety, or welfare of a
587 student and the misconduct warrants termination, the
588 instructional personnel or school administrators may resign or
589 be terminated, and the superintendent must report the misconduct
590 to the department in the format prescribed by the department.
591 The department shall maintain each report of misconduct as a



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592 public record in the instructional personnel's or school
593 administrators' certification files. This paragraph does not
594 limit or restrict the power and duty of the department to
595 investigate complaints, regardless of the school district's
596 untimely filing, or failure to file, complaints and followup
597 reports.

598 (e) If allegations arise against an employee who is
599 certified under s. 1012.56 and employed in an educator-
600 certificated position in any public school, charter school or
601 governing board thereof, or private school that accepts
602 scholarship students under s. 1002.39 or s. 1002.395, the school
603 shall file in writing with the department a legally sufficient
604 complaint within 30 days after the date on which the subject
605 matter of the complaint came to the attention of the school,
606 regardless of whether the subject of the allegations is still an
607 employee of the school. A complaint is legally sufficient if it
608 contains ultimate facts that show a violation has occurred as
609 provided in s. 1012.795 and defined by rule of the State Board
610 of Education. The school shall include all known information
611 relating to the complaint with the filing of the complaint. This
612 paragraph does not limit or restrict the power and duty of the
613 department to investigate complaints, regardless of the school's
614 untimely filing, or failure to file, complaints and followup
615 reports. A school described in this paragraph shall immediately
616 notify the department if the subject of a legally sufficient
617 complaint of misconduct affecting the health, safety, or welfare
618 of a student resigns or is terminated before the conclusion of
619 the school's investigation. Upon receipt of the notification,
620 the department shall place an alert on the person's



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621 certification file indicating that he or she resigned or was
622 terminated before an investigation involving allegations of
623 misconduct affecting the health, safety, or welfare of a student
624 was concluded. In such circumstances, the database may not
625 include specific information relating to the alleged misconduct
626 until permitted by subsection (4).

627 (7) A panel of the commission shall enter a final order
628 either dismissing the complaint or imposing one or more of the
629 following penalties:

630 (a) Denial of an application for a ~~teaching~~ certificate or
631 for an administrative or supervisory endorsement on a teaching
632 certificate. The denial may provide that the applicant may not
633 reapply for certification, and that the department may refuse to
634 consider that applicant's application, for a specified period of
635 time or permanently.

636 (d) Placement of the teacher, administrator, or supervisor
637 on probation for a period of time and subject to such conditions
638 as the commission may specify, including requiring the certified
639 teacher, administrator, or supervisor to complete additional
640 appropriate college courses or work with another certified
641 educator, with the administrative costs of monitoring the
642 probation assessed to the educator placed on probation. An
643 educator who has been placed on probation shall, at a minimum:

644 1. Immediately notify the investigative office in the
645 Department of Education upon employment or separation from
646 ~~termination of employment in the state~~ in any public or private
647 position requiring a Florida educator's certificate.

648 2. Have his or her immediate supervisor submit annual
649 performance reports to the investigative office in the



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650 Department of Education.

651 3. Pay to the commission within the first 6 months of each
652 probation year the administrative costs of monitoring probation
653 assessed to the educator.

654 4. Violate no law and fully comply with all district school
655 board policies, school rules, and State Board of Education
656 rules.

657 5. Satisfactorily perform his or her assigned duties in a
658 competent, professional manner.

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

661
662 The penalties imposed under this subsection are in addition to,
663 and not in lieu of, the penalties required for a third
664 recruiting offense pursuant to s. 1006.20(2)(b).

665
666 ===== T I T L E A M E N D M E N T =====

667 And the title is amended as follows:

668 Delete line 142

669 and insert:

670 State Board of Education to adopt rules; creating s.
671 800.101, F.S.; providing definitions; prohibiting
672 certain conduct with students by authority figures;
673 providing penalties; providing exceptions; amending s.
674 810.097, F.S.; including school busses within the
675 definition of the term "school" for purposes of
676 trespass upon grounds or facilities of a school;
677 amending s. 1001.42, F.S.; requiring school districts
678 to adopt certain standards of ethical conduct;



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679 requiring the district school superintendent to report
680 certain misconduct to law enforcement agencies;
681 amending s. 1001.51, F.S.; providing for the
682 forfeiture of a district school superintendent's
683 salary for a specified period for failure to report
684 certain misconduct to law enforcement agencies;
685 amending s. 1012.27, F.S.; requiring the district
686 school superintendent to notify a parent of specified
687 information relating to allegations of misconduct by
688 instructional personnel or school administrators;
689 amending s. 1012.31, F.S.; requiring a resignation or
690 termination before an investigation of certain
691 misconduct is concluded to be indicated in a personnel
692 file; specifying that legally sufficient complaints of
693 certain misconduct must be reported to the Department
694 of Education; amending s. 1012.315, F.S.; expanding
695 the scope of provisions requiring the disqualification
696 of persons convicted of certain offenses to apply to
697 all persons who are required to have contact with
698 students; providing an additional offense that
699 disqualifies such persons from employment; amending s.
700 1012.56, F.S.; authorizing the Department of Education
701 to deny applicants for certification if the applicant
702 could be disciplined by the Education Practices
703 Commission; authorizing the commission to approve an
704 application with certain conditions; amending s.
705 1012.795, F.S.; authorizing the commission to take
706 certain actions against persons who meet specified
707 criteria; revising reporting requirements concerning



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708 specified misconduct by certified personnel; amending
709 s. 1012.796, F.S.; requiring a school district to file
710 certain complaints with the Department of Education
711 even if the subject of the complaint is no longer
712 employed by the district; requiring certain
713 information be included on an educator's certificate
714 file; requiring certified educators who are placed on
715 probation to immediately notify a specified office
716 upon separation from, rather than termination of,
717 employment; providing an