

1 HB37  
2 117252-4  
3 By Representative Fincher  
4 RFD: Education Policy  
5 First Read: 12-JAN-10  
6 PFD: 11/05/2009

1 ENGROSSED

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4 A BILL

5 TO BE ENTITLED

6 AN ACT

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8 Relating to public education, to amend Section

9 16-23-5, Code of Alabama 1975, relating to the revocation of

10 teaching certificates; to require the State Superintendent of

11 Education to revoke the teaching or other educational

12 certificate of any person convicted of a Class A felony or sex

13 offense involving a child; and to add Sections 16-24-8.1,

14 16-24B-3.1, and 36-26-102.1 to the Code of Alabama 1975,

15 relating to the Teacher Tenure Law, the Teacher Accountability

16 Act, and the Fair Dismissal Act, to provide for the immediate

17 cancellation of the employment contract of a teacher on

18 continuing service status, a principal, or a contract

19 principal and the immediate termination of employment of a

20 nonprobationary employee who is convicted of a felony or sex

21 offense involving a child.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 16-23-5 of the Code of Alabama

24 1975, is amended to read as follows:

25 "§16-23-5.

1           "(a) The State Superintendent of Education shall  
2 ~~have authority to~~ may revoke any certificate issued under ~~the~~  
3 ~~provisions of~~ this chapter when the holder has been guilty of  
4 immoral conduct or unbecoming or indecent behavior. ~~Under Any~~  
5 provision of law to the contrary notwithstanding, under the  
6 circumstances listed in subsection (b), the holder shall be  
7 immediately disenfranchised from certification and any other  
8 rights pursuant to Section 16-24-9.

9           "(b) The State Superintendent of Education shall  
10 immediately revoke any certificate issued under this chapter  
11 when the holder is convicted of capital murder or any Class A  
12 felony, including, but not limited to, rape, murder,  
13 kidnapping, or robbery, or any of the following:

14           "(1) Rape in the first or second degree, pursuant to  
15 Section 13A-6-61 or 13A-6-62.

16           "(2) Sodomy in the first or second degree, pursuant  
17 to Section 13A-6-63 or 13A-6-64.

18           "(3) Sexual torture, pursuant to Section 13A-6-65.1.

19           "(4) Sexual abuse in the first or second degree,  
20 pursuant to Section 13A-6-66 or 13A-6-67.

21           "(5) Enticing a child to enter a vehicle, room,  
22 house, office, or other place for immoral purposes, pursuant  
23 to Section 13A-6-69.

24           "(6) Promoting prostitution in the first or second  
25 degree, pursuant to Section 13A-12-111 or 13A-12-112.

1           "(7) Violation of the Alabama Child Pornography Act  
2 pursuant to Section 13A-12-191, 13A-12-192, 13A-12-196, or  
3 13A-12-197.

4           "(8) Kidnapping a minor, except by a parent, in the  
5 first or second degree, pursuant to Section 13A-6-43 or  
6 13A-6-44.

7           "(9) Incest, pursuant to Section 13A-13-3, when the  
8 offender is an adult and the victim is a minor.

9           "(10) Transmitting obscene material to a child by  
10 computer, pursuant to Section 13A-6-111.

11           "(11) Facilitating solicitation of unlawful sexual  
12 conduct with a child, pursuant to Section 13A-6-121.

13           "(12) Electronic solicitation of a child or  
14 facilitating the online solicitation of a child, pursuant to  
15 Section 13A-6-122 or 13A-6-123.

16           "(13) Traveling to meet a child for an unlawful sex  
17 act or facilitating the travel of a child for an unlawful sex  
18 act, pursuant to Section 13A-6-124 or 13A-6-125.

19           "(14) Any solicitation, attempt, or conspiracy to  
20 commit any of the offenses listed in subdivisions (1) to (13),  
21 inclusive.

22           "(15) Any crime committed in any state or a federal,  
23 military, or foreign jurisdiction which, if committed in this  
24 state under the law existing at the time of the offense, would  
25 constitute an offense listed in subdivisions (1) to (13),  
26 inclusive.

1           "(16) Any criminal sex offense in which the victim  
2 is a child under the age of 12 or any offense involving child  
3 pornography.

4           "(17) Any crime committed in any jurisdiction which,  
5 regardless of the specific description or statutory elements,  
6 may be characterized or known as rape, sodomy, sexual assault,  
7 sexual battery, sexual abuse, sexual torture, solicitation of  
8 a child, enticing or luring a child, child pornography, lewd  
9 and lascivious conduct, taking indecent liberties with a  
10 child, or molestation of a child.

11           "(18) Any crime not listed in this subsection  
12 involving endangerment to the health, safety, or welfare of a  
13 child that may be created on or after the effective date of  
14 the act adding this subdivision."

15           Section 2. Sections 16-24-8.1, 16-24B-3.1, and  
16 36-26-102.1 are added to the Code of Alabama 1975, as follows:

17           §16-24-8.1.

18           (a) Notwithstanding any other provision of this  
19 chapter, the employment contract of a teacher on continuing  
20 service status, whose teaching certificate is revoked by the  
21 State Superintendent of Education pursuant to subsection (b)  
22 of Section 16-23-5, shall be immediately cancelled, any  
23 provision of Sections 16-24-8, 16-24-9, and 16-24-10, to the  
24 contrary notwithstanding.

25           (b) If the conviction resulting in the revocation of  
26 the teaching certificate pursuant to subsection (b) of Section

1 16-23-5 is overturned on appeal, the State Superintendent of  
2 Education, upon receipt of notice of the reversal shall  
3 immediately reinstate the teaching certificate of the teacher,  
4 and the local board of education, at its discretion, shall  
5 place the teacher in a position commensurate with the  
6 employee's licensure from the State Department of Education or  
7 on paid administrative leave. Regardless of whether the  
8 teaching certificate of the teacher is reinstated or a new  
9 employment contract is entered into, the teacher, within 45  
10 days, shall be reimbursed for any back pay, plus benefits,  
11 from the date of cancellation, up to and including the date  
12 his or her conviction is overturned.

13 (c) Nothing in this section shall be construed to  
14 preclude the State Superintendent of Education or the local  
15 board of education from pursuing other legal action against  
16 the teacher based upon the underlying circumstances of the  
17 conviction.

18 §16-24B-3.1

19 (a) Notwithstanding any other provision of this  
20 chapter, the employment contract of a principal or contract  
21 principal, whose certificate is revoked by the State  
22 Superintendent of Education pursuant to subsection (b) of  
23 Section 16-23-5, shall be immediately cancelled, any provision  
24 of Section 16-24B-3 to the contrary notwithstanding.

25 (b) If the conviction resulting in the revocation of  
26 the certificate pursuant to subsection (b) of Section 16-23-5

1 is overturned on appeal, the State Superintendent of  
2 Education, upon receipt of notice of the reversal shall  
3 immediately reinstate the certificate of the principal or  
4 contract principal, and the local board of education, at its  
5 discretion, shall place the principal or contract principal in  
6 a position commensurate with the employee's licensure from the  
7 State Department of Education or on paid administrative leave.  
8 ~~The principal~~ Regardless of whether the certificate of the  
9 principal or contract principal is reinstated or a new  
10 employment contract is entered into, the principal or contract  
11 principal, within 45 days, shall be reimbursed for any back  
12 pay, plus benefits, from the date of cancellation, up to and  
13 including the date his or her conviction is overturned.

14 (c) Nothing in this section shall be construed to  
15 preclude the State Superintendent of Education or the local  
16 board of education from pursuing other legal action against  
17 the principal or contract principal based upon the underlying  
18 circumstances of the conviction.

19 §36-26-102.1.

20 (a) Notwithstanding any other provision of this  
21 article, the employment of an employee on nonprobationary  
22 status, who is convicted of any crime listed in subsection (b)  
23 of Section 16-23-5, shall be immediately terminated, any  
24 provision of Sections 36-26-102, 36-26-103, and 36-26-104 to  
25 the contrary notwithstanding.

1                   (b) If the conviction resulting in the termination  
2 of employment is overturned on appeal, upon receipt of notice  
3 of the reversal, the local board of education, upon the  
4 recommendation of the local superintendent of education, shall  
5 immediately reinstate the employee to a position comparable to  
6 the employee's most recent job assignment or on paid  
7 administrative leave. Regardless of whether the employee is  
8 reinstated, the employee, within 45 days, shall be reimbursed  
9 for any back pay, plus benefits, from the date of termination,  
10 up to and including the date his or her conviction is  
11 overturned.

12                   (c) Nothing in this section shall be construed to  
13 preclude the local superintendent of education or local board  
14 of education from pursuing other legal action against the  
15 employee based upon the underlying circumstances of the  
16 conviction.

17                   Section 3. This act shall become effective  
18 immediately following its passage and approval by the  
19 Governor, or its otherwise becoming law.



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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Education Policy  
..... 12-JAN-10

Read for the second time and placed  
on the calendar with 1 substitute  
and ..... 28-JAN-10

Read for the third time and passed  
as amended ..... 04-FEB-10

Yeas 101, Nays 0, Abstains 0

Greg Pappas  
Clerk