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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. 2777

02/20/2018 Authored by Fenton, Loon, Erickson, Bennett, Franke and others
The bill was read for the first time and referred to the Committee on Education Innovation Policy

1.1 A bill for an act
1.2 relating to education; expanding grounds for teacher license revocation, suspension,
1.3 or denial; expanding grounds for teacher discharge; amending Minnesota Statutes
1.4 2017 Supplement, sections 122A.20, subdivision 1; 122A.40, subdivision 13;
1.5 122A.41, subdivision 6.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2017 Supplement, section 122A.20, subdivision 1, is
1.8 amended to read:

1.9 Subdivision 1. **Grounds for revocation, suspension, or denial.** (a) The Professional
1.10 Educator Licensing and Standards Board or Board of School Administrators, whichever
1.11 has jurisdiction over a teacher's licensure, may, on the written complaint of the school board
1.12 employing a teacher, a teacher organization, or any other interested person, refuse to issue,
1.13 refuse to renew, suspend, or revoke a teacher's license to teach for any of the following
1.14 causes:

- 1.15 (1) immoral character or conduct;
- 1.16 (2) failure, without justifiable cause, to teach for the term of the teacher's contract;
- 1.17 (3) gross inefficiency or willful neglect of duty;
- 1.18 (4) failure to meet licensure requirements; or
- 1.19 (5) fraud or misrepresentation in obtaining a license.

1.20 The written complaint must specify the nature and character of the charges.

1.21 (b) The Professional Educator Licensing and Standards Board or Board of School
1.22 Administrators, whichever has jurisdiction over a teacher's licensure, ~~shall~~ must refuse to

2.1 issue, refuse to renew, or automatically revoke a teacher's license to teach without the right
 2.2 to a hearing upon receiving a certified copy of a conviction showing that the teacher has
 2.3 been convicted of:

2.4 (1) a qualified domestic violence-related offense, as defined in section 609.02, subdivision
 2.5 16;

2.6 (2) child abuse, as defined in section 609.185;

2.7 (3) domestic assault under section 609.2242;

2.8 (4) sex trafficking in the first degree under section 609.322, subdivision 1;

2.9 (5) sex trafficking in the second degree under section 609.322, subdivision 1a;

2.10 (6) engaging in hiring, or agreeing to hire a minor to engage in prostitution under section
 2.11 609.324, subdivision 1, sexual abuse 1a, or 2;

2.12 (7) criminal sexual conduct under section 609.342, 609.343, 609.344, 609.345, 609.3451,
 2.13 subdivision 3, or 617.23, subdivision 3;

2.14 (8) solicitation of children to engage in sexual conduct or communication of sexually
 2.15 explicit materials to children under section 609.352;

2.16 (9) embezzlement of public funds under section 609.54;

2.17 (10) interference with privacy under section 609.746 or stalking under section 609.749
 2.18 and the victim was a minor;

2.19 (11) using minors in a sexual performance under section 617.246;

2.20 (12) possessing pornographic works involving a minor under section 617.247; or

2.21 (13) any other offense not listed in this paragraph that requires the person to register as
 2.22 a predatory offender under section 243.166, or a crime under a similar law of another state
 2.23 or the United States.

2.24 The board ~~shall~~ must send notice of this licensing action to the district in which the teacher
 2.25 is currently employed.

2.26 (c) A person whose license to teach has been revoked, not issued, or not renewed under
 2.27 paragraph (b), may petition the board to reconsider the licensing action if the person's
 2.28 conviction for child abuse or sexual abuse is reversed by a final decision of the Court of
 2.29 Appeals or the Supreme Court or if the person has received a pardon for the offense. The
 2.30 petitioner ~~shall~~ must attach a certified copy of the appellate court's final decision or the
 2.31 pardon to the petition. Upon receiving the petition and its attachment, the board ~~shall~~ must

3.1 schedule and hold a disciplinary hearing on the matter under section 214.10, subdivision 2,
 3.2 unless the petitioner waives the right to a hearing. If the board finds that, notwithstanding
 3.3 the reversal of the petitioner's criminal conviction or the issuance of a pardon, the petitioner
 3.4 is disqualified from teaching under paragraph (a), clause (1), the board ~~shall~~ must affirm
 3.5 its previous licensing action. If the board finds that the petitioner is not disqualified from
 3.6 teaching under paragraph (a), clause (1), it ~~shall~~ must reverse its previous licensing action.

3.7 (d) The Professional Educator Licensing and Standards Board or Board of School
 3.8 Administrators, whichever has jurisdiction over a teacher's licensure, must refuse to issue,
 3.9 refuse to renew, or revoke a teacher's license to teach if the teacher has been convicted of
 3.10 either a felony or a gross misdemeanor involving a minor. A person whose license to teach
 3.11 has been revoked, not issued, or not renewed under this paragraph may petition the board
 3.12 to reconsider for good cause shown, in accordance with procedures adopted by the board.
 3.13 The board's decision to refuse to issue, refuse to renew, or revoke a license under this
 3.14 paragraph is not subject to review under section 122A.188.

3.15 ~~(d)~~ (e) For purposes of this subdivision, the Professional Educator Licensing and
 3.16 Standards Board is delegated the authority to suspend or revoke coaching licenses.

3.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.18 Sec. 2. Minnesota Statutes 2017 Supplement, section 122A.40, subdivision 13, is amended
 3.19 to read:

3.20 Subd. 13. **Immediate discharge.** (a) Except as otherwise provided in paragraph (b), a
 3.21 board may discharge a continuing-contract teacher, effective immediately, upon any of the
 3.22 following grounds:

3.23 (1) immoral conduct, insubordination, or conviction of a felony;

3.24 (2) conduct unbecoming a teacher which requires the immediate removal of the teacher
 3.25 from classroom or other duties;

3.26 (3) failure without justifiable cause to teach without first securing the written release of
 3.27 the school board;

3.28 (4) gross inefficiency which the teacher has failed to correct after reasonable written
 3.29 notice;

3.30 (5) willful neglect of duty; or

3.31 (6) continuing physical or mental disability subsequent to a 12 months leave of absence
 3.32 and inability to qualify for reinstatement in accordance with subdivision 12.

4.1 For purposes of this paragraph, conduct unbecoming a teacher includes an unfair
4.2 discriminatory practice described in section 363A.13.

4.3 Prior to discharging a teacher under this paragraph, the board must notify the teacher in
4.4 writing and state its ground for the proposed discharge in reasonable detail. Within ten days
4.5 after receipt of this notification the teacher may make a written request for a hearing before
4.6 the board and it ~~shall~~ must be granted before final action is taken. The board may suspend
4.7 a teacher with pay pending the conclusion of the hearing and determination of the issues
4.8 raised in the hearing after charges have been filed which constitute ground for discharge.
4.9 If a teacher has been charged with a felony and the underlying conduct that is the subject
4.10 of the felony charge is a ground for a proposed immediate discharge, the suspension pending
4.11 the conclusion of the hearing and determination of the issues may be without pay. If a
4.12 hearing under this paragraph is held, the board must reimburse the teacher for any salary
4.13 or compensation withheld if the final decision of the board or the arbitrator does not result
4.14 in a penalty to or suspension, termination, or discharge of the teacher.

4.15 (b) A board must discharge a continuing-contract teacher, effective immediately, upon
4.16 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's
4.17 license has been revoked due to a conviction for child abuse, as defined in section 609.185;
4.18 sex trafficking in the first degree under section 609.322, subdivision 1; sex trafficking in
4.19 the second degree under section 609.322, subdivision 1a; engaging in hiring or agreeing to
4.20 hire a minor to engage in prostitution under section 609.324, subdivision 1; sexual abuse
4.21 under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 617.23,
4.22 subdivision 3; solicitation of children to engage in sexual conduct or communication of
4.23 sexually explicit materials to children under section 609.352; interference with privacy
4.24 under section 609.746 or stalking under section 609.749 and the victim was a minor; using
4.25 minors in a sexual performance under section 617.246; possessing pornographic works
4.26 involving a minor under section 617.247; ~~or~~ any other offense not listed in this paragraph
4.27 that requires the person to register as a predatory offender under section 243.166, or a crime
4.28 under a similar law of another state or the United States; or any other offense not listed in
4.29 this paragraph that requires notice of a licensing action to the district in accordance with
4.30 section 122A.20, subdivision 1, paragraph (b).

4.31 (c) When a teacher is discharged under paragraph (b) or when the commissioner makes
4.32 a final determination of child maltreatment involving a teacher under section 626.556,
4.33 subdivision 11, the school principal or other person having administrative control of the
4.34 school must include in the teacher's employment record the information contained in the
4.35 record of the disciplinary action or the final maltreatment determination, consistent with

5.1 the definition of public data under section 13.41, subdivision 5, and must provide the
 5.2 Professional Educator Licensing and Standards Board and the licensing division at the
 5.3 department with the necessary and relevant information to enable the Professional Educator
 5.4 Licensing and Standards Board and the department's licensing division to fulfill their statutory
 5.5 and administrative duties related to issuing, renewing, suspending, or revoking a teacher's
 5.6 license. Information received by the Professional Educator Licensing and Standards Board
 5.7 or the licensing division at the department under this paragraph is governed by section 13.41
 5.8 or other applicable law governing data of the receiving entity. In addition to the background
 5.9 check required under section 123B.03, a school board or other school hiring authority must
 5.10 contact the Professional Educator Licensing and Standards Board and the department to
 5.11 determine whether the teacher's license has been suspended or revoked, consistent with the
 5.12 discharge and final maltreatment determinations identified in this paragraph. Unless restricted
 5.13 by federal or state data practices law or by the terms of a collective bargaining agreement,
 5.14 the responsible authority for a school district must disseminate to another school district
 5.15 private personnel data on a current or former teacher employee or contractor of the district,
 5.16 including the results of background investigations, if the requesting school district seeks
 5.17 the information because the subject of the data has applied for employment with the
 5.18 requesting school district.

5.19 **EFFECTIVE DATE.** This section is effective for the 2018-2019 school year and later.

5.20 Sec. 3. Minnesota Statutes 2017 Supplement, section 122A.41, subdivision 6, is amended
 5.21 to read:

5.22 Subd. 6. **Grounds for discharge or demotion.** (a) Except as otherwise provided in
 5.23 paragraph (b), causes for the discharge or demotion of a teacher either during or after the
 5.24 probationary period must be:

5.25 (1) immoral character, conduct unbecoming a teacher, or insubordination;

5.26 (2) failure without justifiable cause to teach without first securing the written release of
 5.27 the school board having the care, management, or control of the school in which the teacher
 5.28 is employed;

5.29 (3) inefficiency in teaching or in the management of a school, consistent with subdivision
 5.30 5, paragraph (b);

5.31 (4) affliction with a communicable disease must be considered as cause for removal or
 5.32 suspension while the teacher is suffering from such disability; or

5.33 (5) discontinuance of position or lack of pupils.

6.1 For purposes of this paragraph, conduct unbecoming a teacher includes an unfair
6.2 discriminatory practice described in section 363A.13.

6.3 (b) A probationary or continuing-contract teacher must be discharged immediately upon
6.4 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's
6.5 license has been revoked due to a conviction for child abuse, as defined in section 609.185;
6.6 sex trafficking in the first degree under section 609.322, subdivision 1; sex trafficking in
6.7 the second degree under section 609.322, subdivision 1a; engaging in hiring or agreeing to
6.8 hire a minor to engage in prostitution under section 609.324, subdivision 1; sexual abuse
6.9 under section 609.342, 609.343, 609.344, 609.345, 609.3451, subdivision 3, or 617.23,
6.10 subdivision 3; solicitation of children to engage in sexual conduct or communication of
6.11 sexually explicit materials to children under section 609.352; interference with privacy
6.12 under section 609.746 or stalking under section 609.749 and the victim was a minor; using
6.13 minors in a sexual performance under section 617.246; possessing pornographic works
6.14 involving a minor under section 617.247; ~~or~~ any other offense not listed in this paragraph
6.15 that requires the person to register as a predatory offender under section 243.166, or a crime
6.16 under a similar law of another state or the United States; or any other offense not listed in
6.17 this paragraph that requires notice of a licensing action to the district in accordance with
6.18 section 122A.20, subdivision 1, paragraph (b).

6.19 (c) When a teacher is discharged under paragraph (b) or when the commissioner makes
6.20 a final determination of child maltreatment involving a teacher under section 626.556,
6.21 subdivision 11, the school principal or other person having administrative control of the
6.22 school must include in the teacher's employment record the information contained in the
6.23 record of the disciplinary action or the final maltreatment determination, consistent with
6.24 the definition of public data under section 13.41, subdivision 5, and must provide the
6.25 Professional Educator Licensing and Standards Board and the licensing division at the
6.26 department with the necessary and relevant information to enable the Professional Educator
6.27 Licensing and Standards Board and the department's licensing division to fulfill their statutory
6.28 and administrative duties related to issuing, renewing, suspending, or revoking a teacher's
6.29 license. Information received by the Professional Educator Licensing and Standards Board
6.30 or the licensing division at the department under this paragraph is governed by section 13.41
6.31 or other applicable law governing data of the receiving entity. In addition to the background
6.32 check required under section 123B.03, a school board or other school hiring authority must
6.33 contact the Professional Educator Licensing and Standards Board and the department to
6.34 determine whether the teacher's license has been suspended or revoked, consistent with the
6.35 discharge and final maltreatment determinations identified in this paragraph. Unless restricted

7.1 by federal or state data practices law or by the terms of a collective bargaining agreement,
7.2 the responsible authority for a school district must disseminate to another school district
7.3 private personnel data on a current or former teacher employee or contractor of the district,
7.4 including the results of background investigations, if the requesting school district seeks
7.5 the information because the subject of the data has applied for employment with the
7.6 requesting school district.

7.7 **EFFECTIVE DATE.** This section is effective for the 2018-2019 school year and later.