

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

House Bill 4378

BY DELEGATES HILL, PACK, KESSINGER, HANNA,
ELLINGTON, HIGGINBOTHAM, FOSTER, P. MARTIN AND
WORRELL

[Originating in the Committee on Education; Reported
on January 30, 2020.]

1 A BILL to amend and reenact §18A-3-6 of the Code of West Virginia, 1931, as amended, relating
2 to grounds for revocation or suspension of teaching certificates; authorizing suspensions;
3 authorizing additional sanction options by the state superintendent with respect to
4 violations; authorizing superintendent to issue subpoenas to aid investigation of
5 allegations against persons subject to licensure; requiring professional relationship with
6 students; providing minimum revocation period for offenses and specifying offenses; and
7 defining grooming a student or minor.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL
DEVELOPMENT.**

**§18A-3-6. ~~Ground~~ Grounds for revocation or suspension of certificates; other authorized
actions by state superintendent; required reporting by county superintendents; and
recalling certificates for correction.**

1 (a) The State Superintendent may, after 10 days' notice and upon proper evidence, revoke
2 or suspend the certificates of any teacher for any of the following causes: Intemperance;
3 untruthfulness; cruelty; immorality; the conviction of a felony or a guilty plea or a plea of no contest
4 to a felony charge; the conviction, guilty plea or plea of no contest to any charge involving sexual
5 misconduct with a minor or a student; or for using fraudulent, unapproved or insufficient credit to
6 obtain the certificates: *Provided*, That in order for any conduct of a teacher involving
7 intemperance; cruelty; immorality; or using fraudulent, unapproved or insufficient credit to obtain
8 the certificates to constitute grounds for the revocation of the certificates of the teacher, there
9 must be a rational nexus between the conduct of the teacher and the performance of his or her
10 job. The State Superintendent shall also have the authority to limit certificates, issue letters of
11 admonishment, or enter into consent agreements requiring specific training in order for a teacher
12 to maintain a certificate. The State Superintendent may designate the West Virginia commission

13 for professional teaching standards or members thereof to conduct hearings on revocations or
14 certificate denials and make recommendations for action by the State Superintendent. The State
15 Superintendent may issue subpoenas and subpoenas duces tecum to obtain testimony and
16 documents to aid in the investigation of allegations against any person subject to licensure by the
17 State Superintendent.

18 (b) Provided further, That A teacher, as defined by West Virginia Code §18-1-1(g),
19 convicted under §61-8D-3 or §61-8D-5 of this code or comparable statute in any other state, any
20 criminal offense that requires the teacher to register as a sex offender, or any criminal offense
21 which has as an element delivery or distribution of a controlled substance, shall have his or her
22 certificate or license automatically revoked. Should the conviction resulting in automatic
23 revocation pursuant to this section be overturned by any Court of this State or the United States,
24 the teacher's certification shall be reinstated unless otherwise prohibited by law.

25 (c) A teacher, as defined by §18-1-1(g) of this code, and including any individual holding
26 a license granted pursuant to §18A-3-2a of this code, shall maintain a professional relationship
27 with all students at all times, both in and out of the classroom. Any teacher found to have
28 committed any act of sexual abuse of a student or minor or to have engaged in inappropriate
29 sexual conduct with a student or minor; committed an act of cruelty to children or an act of child
30 endangerment or solicited, encouraged, engaged in or consummated an inappropriate
31 relationship with any student, minor, or individual who was a student in the preceding 24 months;
32 or engaged in grooming a student or minor shall have his or her license revoked for a period of
33 time not less than five years. For the purposes of this subsection, "grooming a student or minor"
34 means befriending and establishing an emotional connection with a student or minor, which may
35 include the family of the student or minor, to lower the student's or minor's inhibitions with the
36 objective of committing sexual abuse, child trafficking, child prostitution, the production of child
37 pornography, or any other offense for which a license shall be revoked under this subsection.

38 ~~(b)~~ (d) Any county superintendent who knows of any acts on the part of any teacher for
39 which a certificate may be revoked or for which other action may be taken in accordance with this
40 section shall report this, together with all the facts and evidence, to the State Superintendent for
41 such action as in the State Superintendent's judgment may be proper.

42 ~~(e)~~ (e) If a certificate has been granted through an error, oversight, or misinformation, the
43 State Superintendent may recall the certificate and make such corrections as will conform to the
44 requirements of law and the state board.

Strike-throughs indicate language that would be stricken from a heading or the present law
and underscoring indicates new language that would be added.