

1 SB316  
2 117633-1  
3 By Senators Keahey, Benefield, Poole, Smith, Butler, Little  
4 (Z), Mitchell, Bedford, Singleton, Barron, Little (T),  
5 Sanders, Denton and Pittman  
6 RFD: Energy and Natural Resources  
7 First Read: 02-FEB-10

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8 SYNOPSIS: Under existing law, the State  
9 Superintendent of Education is authorized to revoke  
10 the teaching or other educational certificate of  
11 any person who is guilty of immoral conduct or  
12 unbecoming or indecent behavior.

13 Also, under existing law, the employment  
14 contract, or employment, of an education employee  
15 may be cancelled or terminated for incompetency,  
16 neglect of duty, immorality, and other good and  
17 just cause.

18 This bill would require the State  
19 Superintendent of Education to revoke the teaching  
20 or other educational certificate of any person  
21 convicted of a Class A felony or sex offense  
22 involving a child and would provide for the  
23 immediate cancellation of the employment contract  
24 or employment of any education employee convicted  
25 of a felony or sex offense involving a child.

26  
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3  
4 Relating to public education, to amend Section  
5 16-23-5, Code of Alabama 1975, relating to the revocation of  
6 teaching certificates; to require the State Superintendent of  
7 Education to revoke the teaching or other educational  
8 certificate of any person convicted of a Class A felony or sex  
9 offense involving a child; and to add Sections 16-24-8.1,  
10 16-24B-3.1, and 36-26-102.1 to the Code of Alabama 1975,  
11 relating to the Teacher Tenure Law, the Teacher Accountability  
12 Act, and the Fair Dismissal Act, to provide for the immediate  
13 cancellation of the employment contract of a teacher on  
14 continuing service status, a principal, or a contract  
15 principal and the immediate termination of employment of a  
16 nonprobationary employee who is convicted of a felony or sex  
17 offense involving a child.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 16-23-5 of the Code of Alabama  
20 1975, is amended to read as follows:

21 "§16-23-5.

22 "(a) The State Superintendent of Education ~~shall~~  
23 ~~have authority to~~ may revoke any certificate issued under ~~the~~  
24 ~~provisions of~~ this chapter when the holder has been guilty of  
25 immoral conduct or unbecoming or indecent behavior. Any  
26 provision of law to the contrary notwithstanding, under the  
27 circumstances listed in subsection (b), the holder shall be

1 immediately disenfranchised from certification and any other  
2 rights pursuant to Section 16-24-9.

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

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

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

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

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

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

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

20 "(7) Violation of the Alabama Child Pornography Act  
21 pursuant to Section 13A-12-191, 13A-12-192, 13A-12-196, or  
22 13A-12-197.

23 "(8) Kidnapping a minor, except by a parent, in the  
24 first or second degree, pursuant to Section 13A-6-43 or  
25 13A-6-44.

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

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

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

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

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

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

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

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

22           "(17) Any crime committed in any jurisdiction which,  
23 regardless of the specific description or statutory elements,  
24 may be characterized or known as rape, sodomy, sexual assault,  
25 sexual battery, sexual abuse, sexual torture, solicitation of  
26 a child, enticing or luring a child, child pornography, lewd

1 and lascivious conduct, taking indecent liberties with a  
2 child, or molestation of a child.

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

7 Section 2. Sections 16-24-8.1, 16-24B-3.1, and  
8 36-26-102.1 are added to the Code of Alabama 1975, as follows:

9 §16-24-8.1.

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

17 (b) If the conviction resulting in the revocation of  
18 the teaching certificate pursuant to subsection (b) of Section  
19 16-23-5 is overturned on appeal, the State Superintendent of  
20 Education, upon receipt of notice of the reversal shall  
21 immediately reinstate the teaching certificate of the teacher,  
22 and the local board of education, at its discretion, shall  
23 place the teacher in a position commensurate with the  
24 employee's licensure from the State Department of Education or  
25 on paid administrative leave. Regardless of whether the  
26 teaching certificate of the teacher is reinstated or a new  
27 employment contract is entered into, the teacher, within 45

1 days, shall be reimbursed for any back pay, plus benefits,  
2 from the date of cancellation, up to and including the date  
3 his or her conviction is overturned.

4 (c) Nothing in this section shall be construed to  
5 preclude the State Superintendent of Education or the local  
6 board of education from pursuing other legal action against  
7 the teacher based upon the underlying circumstances of the  
8 conviction.

9 §16-24B-3.1

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

16 (b) If the conviction resulting in the revocation of  
17 the certificate pursuant to subsection (b) of Section 16-23-5  
18 is overturned on appeal, the State Superintendent of  
19 Education, upon receipt of notice of the reversal shall  
20 immediately reinstate the certificate of the principal or  
21 contract principal, and the local board of education, at its  
22 discretion, shall place the principal or contract principal in  
23 a position commensurate with the employee's licensure from the  
24 State Department of Education or on paid administrative leave.  
25 Regardless of whether the certificate of the principal or  
26 contract principal is reinstated or a new employment contract  
27 is entered into, the principal or contract principal, within

1 45 days, shall be reimbursed for any back pay, plus benefits,  
2 from the date of cancellation, up to and including the date  
3 his or her conviction is overturned.

4 (c) Nothing in this section shall be construed to  
5 preclude the State Superintendent of Education or the local  
6 board of education from pursuing other legal action against  
7 the principal or contract principal based upon the underlying  
8 circumstances of the conviction.

9 §36-26-102.1.

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

16 (b) If the conviction resulting in the termination  
17 of employment is overturned on appeal, upon receipt of notice  
18 of the reversal, the local board of education, upon the  
19 recommendation of the local superintendent of education, shall  
20 immediately reinstate the employee to a position comparable to  
21 the employee's most recent job assignment or on paid  
22 administrative leave. Regardless of whether the employee is  
23 reinstated, the employee, within 45 days, shall be reimbursed  
24 for any back pay, plus benefits, from the date of termination,  
25 up to and including the date his or her conviction is  
26 overturned.



1                   (c) Nothing in this section shall be construed to  
2 preclude the local superintendent of education or local board  
3 of education from pursuing other legal action against the  
4 employee based upon the underlying circumstances of the  
5 conviction.

6                   Section 3. This act shall become effective  
7 immediately following its passage and approval by the  
8 Governor, or its otherwise becoming law.