SB143

EIBBCC2-1

By Senators Shelnutt, Chesteen, Orr

RFD: Education Policy

First Read: 20-Feb-24

SYNOPSIS:

Under existing law, the State Superintendent of Education may revoke the teaching certificate of an individual who has been convicted of immoral conduct or indecent behavior. The State Superintendent of Education is required to revoke the teaching certificate of an individual convicted of any Class A felony and other enumerated crimes.

This bill would add the crime of a school employee engaging in a sex act with a student to the list of enumerated crimes for which the State Superintendent of Education is required to revoke the teaching certificate of an individual upon conviction.

This bill would require a local superintendent of education to file a report with the State Superintendent of Education if a teacher or other school employee is terminated or resigns due to an allegation of misconduct which would require the State Superintendent of Education to revoke the teaching certificate of the individual if convicted.

This bill would require the principal of a school to file a report with the local superintendent of education upon receiving evidence that a teacher or school employee engaged in conduct which would require the State Superintendent of Education to revoke the

teaching certificate of the individual if convicted.

This bill would require teachers and other school employees to immediately report to their principal any evidence that a teacher or school employee engaged in misconduct which would require the State Superintendent of Education to revoke the teaching certificate of the individual if convicted.

This bill would also provide a criminal penalty for knowingly failing to file a report with the intent to conceal an allegation of misconduct that is required to be reported.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the section. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the section.

A BILL

TO BE ENTITLED

AN ACT

Relating to public K-12 education; to amend Section 16-23-5, Code of Alabama 1975, to provide further for the revocation of a teaching certificate; to require the reporting of certain misconduct; to provide a criminal penalty for a knowing violation; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§16-23-5

(a) The State Superintendent of Education may revoke any certificate issued under this chapter when the holder has been guilty of immoral conduct or unbecoming or indecent behavior. Any provision of law to the contrary notwithstanding, under the circumstances listed in subsection (b), the holder shall be immediately disenfranchised from certification and any other rights pursuant to ~~Section 16-24-9~~ Chapter 24C.

(b) The State Superintendent of Education shall immediately revoke any certificate issued under this chapter

when the holder is convicted of capital murder or any Class A felony, including, but not limited to, rape, murder, kidnapping, or robbery, or any of the following:

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

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

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

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

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

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

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

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

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

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

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

(12) Electronic solicitation of a child or facilitating

the online solicitation of a child, pursuant to Section 13A-6-122 or 13A-6-123.

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

(14) Any violation of Article 4A of Chapter 6 of Title 13A involving a school employee and a student.

~~(14)~~ (15) Any solicitation, attempt, or conspiracy to commit any of the offenses listed ~~in subdivisions (1) to (13), inclusive~~under this subsection.

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

~~(16)~~ (17) Any criminal sex offense in which the victim is a child under ~~the age of~~ 12 years of age or any offense involving child pornography.

~~(17)~~ (18) Any crime committed in any jurisdiction which, regardless of the specific description or statutory elements, may be characterized or known as rape, sodomy, sexual assault, sexual battery, sexual abuse, sexual torture, solicitation of a child, enticing or luring a child, child pornography, lewd and lascivious conduct, taking indecent liberties with a child, or molestation of a child.

~~(18)~~ (19) Any crime not listed in this subsection involving endangerment to the health, safety, or welfare of a child that may be created on or after March 31, 2010.

(c) A local superintendent of education shall file a report with the State Superintendent of Education within seven business days after the date of any of the following:

(1) The employment of a teacher or employee of the local board of education is terminated or administratively suspended and there is evidence that the teacher or employee engaged in any misconduct described in subsection (b).

(2) A teacher or employee of the local board of education resigns and there is evidence that the teacher or employee engaged in any misconduct described in subsection (b).

(3) An individual applied for a job with the local board of education and there is evidence that the individual engaged in any misconduct described in subsection (b).

(d)(1) A principal shall file a report with the local superintendent of education within 72 hours after the date of any of the following:

a. The termination, suspension, or resignation of employment of a teacher or school employee following an alleged incident of misconduct described in subsection (b).

b. The receipt of a report or other evidence alleging an incident of misconduct described in subsection (b) against a teacher, principal or other administrator, or other school employee.

(2) The local superintendent of education shall furnish copies of the report to members of the local board of education and the county sheriff.

(e) Public K-12 teachers and other school employees

shall immediately report to the principal any evidence of an incident of misconduct described in subsection (b) involving a teacher or school employee of which they have knowledge. The teacher or school employee shall assist the principal in the preparation of the report required in subsection (d).

(f) A teacher, principal, or other school employee who, in good faith, reports an incident of misconduct described in subsection (b) to the appropriate authorities shall be immune from civil or criminal liability arising from the report.

(g) An individual who is required to file a report under this section, and who knowingly fails to file the report by the date required by this section with the intent to conceal the criminal record or alleged incident of misconduct, is guilty of a Class C felony."

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Section 111.05 of the Constitution of Alabama of 2022, because the bill defines a new crime or amends the definition of an existing crime.

Section 3. This act shall become effective on October 1, 2024.