

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 1092*

Short Title: An Act to Safeguard Children.

(Public)

Sponsors: Representatives L. Johnson; Justice, LaRoque, Sauls, and Stam.

Referred to: Finance.

April 10, 2003

A BILL TO BE ENTITLED

1 AN ACT TO ENHANCE THE ABILITY OF THE STATE BOARD OF EDUCATION
2 TO SAFEGUARD SCHOOLCHILDREN THROUGH A COORDINATED
3 PROGRAM OF PROFESSIONAL ETHICS AND DISCIPLINE THAT INCLUDES
4 THE AUTOMATIC REVOCATION OF TEACHER CERTIFICATES UPON
5 CONVICTION OF CERTAIN CRIMES, THE USE OF HEARSAY TESTIMONY
6 IN ADMINISTRATIVE HEARINGS TO REVOKE TEACHER CERTIFICATES,
7 AND THE USE OF INVESTIGATIVE SERVICES AS NEEDED.
8

9 Whereas, although the vast majority of the State's certificated educators
10 conduct themselves professionally and devote themselves to the education and welfare
11 of the children who are entrusted to their care, within the last 12 years the State Board
12 of Education has experienced nearly a four thousand percent (4,000%) increase in the
13 number of allegations of educator misconduct that it has received, from 7 in 1991 to 271
14 in 2002; and

15 Whereas, many of these allegations involve improper sexual conduct between
16 the educator and one or more students; and

17 Whereas, this trend is indicative of similar occurrences in other states as well
18 as in other professions; and

19 Whereas, many of these allegations require a more thorough investigation of
20 the facts than the Board is currently equipped to conduct; and

21 Whereas, the Board has in some cases been challenged in its effort to revoke
22 a license based upon admitted sexual activity with a student or upon a criminal
23 conviction such as taking indecent liberties with a child; and

24 Whereas, some criminal convictions in and of themselves indicate that the
25 defendant should forfeit his or her ability to hold a certificate; and

26 Whereas, professional educators hold a crucial position of trust with respect
27 to the children they educate; and

1 Whereas, the Board is committed to providing all students with safe, orderly,
2 and caring schools that are staffed by professional personnel who act consistently for
3 the best interests of those students; and

4 Whereas, if all children are to have the opportunity to learn and develop into
5 healthy, productive adults as envisioned by the ABCs of Public Education and by the
6 No Child Left Behind Act of 2001, the State must take every reasonable step to provide
7 our children with professional educators who serve as positive role models as indicated
8 in Faulkner v. New Bern-Craven County Board of Education, 65 N.C. App. 483 (1984);

9 Now, therefore,

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** G.S. 115C-296 reads as rewritten:

12 **"§ 115C-296. Board sets certification requirements.**

13 ...

14 (a2) The State Board of Education shall impose the following schedule of fees for
15 teacher certification and administrative changes:

- 16 (1) Application for demographic or administrative changes to a certificate,
17 ~~\$30.00.~~\$35.00.
- 18 (2) Application for a duplicate certificate or for copies of documents in the
19 certification files, ~~\$30.00.~~ \$35.00.
- 20 (3) Application for a renewal, extension, addition, upgrade, and variation
21 to a certificate, ~~\$55.00.~~\$60.00.
- 22 (4) Initial application for New, In-State Approved Program Graduate,
23 ~~\$55.00.~~\$60.00.
- 24 (5) Initial application for out-of-State certificate, ~~\$85.00.~~\$90.00.
- 25 (6) All other applications, ~~\$85.00.~~\$90.00.

26 The applicant must pay the fee at the time the application is submitted.

27 ...

28 (d) The State Board shall adopt rules to establish the reasons and procedures for
29 the suspension and revocation of certificates. The State Board shall revoke the
30 certificate of a teacher or school administrator if the State Board receives notification
31 from a local board or the Secretary of Health and Human Services that a teacher or
32 school administrator has received an unsatisfactory or below standard rating under G.S.
33 115C-333(d). The State Board shall automatically revoke the certificate of a teacher or
34 school administrator without the right to notice and a hearing upon receiving a certified
35 copy of a criminal record showing that the teacher or school administrator has entered a
36 plea of guilty or nolo contendere to or has been convicted of any of the following
37 crimes: Murder in the first or second degree, G.S. 14-17; Conspiracy or solicitation to
38 commit murder, G.S. 14-18.1; Rape or sexual offense as defined in Article 7A of
39 Chapter 14 of the General Statutes. Felonious assault with deadly weapon with intent to
40 kill or inflicting serious injury, G.S. 14-32; any misdemeanor assault under G.S. 14-33
41 where the victim is a minor; Kidnapping, G.S. 14-39; Abduction of children, G.S. 14-
42 41; Crime against nature, G.S. 14-177; Incest, G.S. 14-178 or G.S. 14-179; Employing
43 or permitting minor to assist in offense against public morality and decency, G.S. 14-
44 190.6; Dissemination to minors under the age of 16 years, G.S. 14-190.7; Dissemination

1 to minors under the age of 13 years, G.S. 14-190.8; Displaying material harmful to
2 minors, G.S. 14-190.14; Disseminating harmful material to minors, G.S. 14-190.15;
3 First degree sexual exploitation of a minor, G.S. 14-190.16; Second degree sexual
4 exploitation of a minor, G.S. 14-190.17; Third degree sexual exploitation of a minor,
5 G.S. 14-190.17A; Promoting prostitution of a minor, G.S. 14-190.18; Participating in
6 prostitution of a minor, G.S. 14-190.19; Taking indecent liberties with children, G.S.
7 14-202.1; Solicitation of child by computer to commit an unlawful sex act, G.S.
8 14-202.3; Taking indecent liberties with a student, G.S. 14-202.4; Prostitution, G.S.
9 14-204; and child abuse under either G.S. 14-318.2 or G.S. 14-318.4. In addition, the
10 State Board may revoke or refuse to renew a teacher's certificate when:

- 11 (1) The Board identifies the school in which the teacher is employed as
12 low-performing under G.S. 115C-105.37 or G.S. 143B-146.5; and
- 13 (2) The assistance team assigned to that school makes the
14 recommendation to revoke or refuse to renew the teacher's certificate
15 for one or more reasons established by the State Board in its rules for
16 certificate suspension or revocation.

17 The State Board may issue subpoenas for the purpose of obtaining documents or the
18 testimony of witnesses in connection with proceedings to suspend or revoke certificates.
19 In addition, the Board shall have the authority to contract with individuals who are
20 qualified to conduct investigations in order to obtain all information needed to assist the
21 Board in the proper disposition of allegations of misconduct by certificated persons.

22 In any administrative hearing conducted under Article 3 of Chapter 150B of the
23 General Statutes involving the revocation or proposed revocation of a teacher's or
24 school administrator's certificate, the parties may admit into evidence any hearsay
25 testimony that the administrative law judge determines is relevant to the issues involved
26 in the hearing.

27 ..."

28 **SECTION 2.** This act is effective when it becomes law.