

A Bill for an Act Relating to Teacher Licensure.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to subpart D of part III to be appropriately designated and to read as follows:

“§302A- Conviction of a teacher for sexual offense; suspension of license; procedure for license revocation. (a) The board may suspend an individual’s license to teach without a hearing upon receipt of a certified copy of a judgment of conviction indicating that a teacher has been convicted of a sexual offense as defined in section 846E-1, or under a similar law of another state of the United States, and verification of the identity of the teacher. Immediately upon suspension, the board shall initiate proceedings in accordance with chapter 91 to permanently revoke an individual’s license to teach.

(b) The clerk of the court in this state in which the conviction of a teacher for any sexual offense against a minor, as described in subsection (a), was entered shall transmit to the board, within ten days after the date of the conviction, a certified copy of the judgment of conviction.

(c) The department of education, and any independent school agency or charter school agency in the state shall notify the board of the name of any teacher convicted of a sexual offense as specified in subsection (a).

(d) When any individual is being tried by a court of an offense specified in subsection (a) the board shall notify the clerk of the court that the individual is a teacher.

(e) The board shall mail notice of its intent to initiate proceedings to permanently revoke the license by certified mail, return receipt requested, directed to the teacher at the teacher’s last known address, within ten days of the suspension. In addition to any information required under section 91-9, the notice shall inform the teacher that the board shall revoke the teacher’s license unless the teacher notifies the board in writing within ten days after receipt of the notice that the teacher intends to contest the suspension and pending revocation in accordance with chapter 91. Upon receipt of written notice by the board, the board may continue the suspension of the license pending the outcome of the administrative hearing process established by chapter 91.

(f) A person whose license to teach has been suspended pursuant to subsection (a) may petition the board to reconsider the suspension and pending revocation pursuant to chapter 91. Grounds for reconsideration shall include reversal of the conviction by a final decision of the appellate court or supreme court as well as the criteria specified in subsection (h). The petitioner shall attach to the petition a certified copy of the appellate court’s final decision and any other information supporting the petition. Upon receipt of the petition, the board shall conduct a hearing on the matter pursuant to chapter 91, unless waived by the petitioner, and may reverse or affirm its previous decision to suspend and revoke, notwithstanding the reversal of conviction or any other criteria specified in subsection (h).

(g) A final decision of the board is subject to judicial appeal pursuant to section 91-14.

(h) In addition to reversal of conviction as specified in subsection (f), the board may also consider the circumstances of the conviction, including the nature and type of conduct that led to the conviction, the severity of the conduct, the length of time that has passed since the commission of the conduct, and whether the conduct

indicates that the petitioner poses an actual risk to the health, safety, or well-being of children within the school system. For convictions under a similar law of another state of the United States, the board shall determine that the conduct that is the basis for the conviction would be sufficient to sustain a conviction for a sexual offense as defined in section 846E-1 if the conduct had occurred within the State of Hawaii.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon approval, and shall be repealed on July 1, 2010, or upon adoption of rules regarding the matter by the Hawaii teacher standards board, whichever is earlier.

(Approved June 11, 2008.)

Note

1. Edited pursuant to HRS §23G-16.5.