

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

SENATE BILL NO. 2074

(Education Committee)

(At the request of the Education Standards and Practices Board)

AN ACT to create and enact a new section to chapter 15-36 of the North Dakota Century Code, relating to grounds for the automatic denial or revocation of teaching certificates; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15-36 of the North Dakota Century Code is created and enacted as follows:

Crimes against a child and sexual offenses - Denial of or immediate revocation of teaching certificate.

1. Notwithstanding any other law, the education standards and practices board shall deny an application for a teaching certificate and shall revoke immediately the teaching certificate of an individual, other than an administrator, who has been found guilty of a crime against a child or a sexual offense. Notwithstanding any other law, the administrator's professional practices board shall revoke immediately the teaching certificate of an administrator who has been found guilty of a crime against a child or a sexual offense.
2. An individual, other than an administrator, who is denied a teaching certificate or who has had a teaching certificate revoked under subsection 1 may file a request with the education standards and practices board for a due process hearing under chapter 28-32. The hearing must be held within ten days of the request. An administrator who has had a teaching certificate revoked under subsection 1 may file a request with the administrator's professional practices board for a due process hearing under chapter 28-32. The hearing must be held within ten days of the request. The scope of the hearing is limited to determining whether the individual was convicted of a crime against a child or a sexual offense and whether the conviction has been overturned on appeal.
3. A final decision denying a teaching certificate or revoking a teaching certificate under this section is appealable pursuant to chapter 28-32. A court may not stay the decision pending an appeal. A court shall affirm the decision denying a teaching certificate or revoking a teaching certificate unless the court finds that the individual was not convicted of a crime against a child or a sexual offense or that the conviction was overturned on appeal.
4. The education standards and practices board or, in the case of a school administrator, the administrator's professional practices board, may impose a fee against a certificate holder to reimburse the education standards and practices board or, in the case of a school administrator, the administrator's professional practices board, for all or part of the costs of administrative actions that result in disciplinary action against the certificate holder under this section.
5. As used in this section:
 - a. "Conviction" means a finding of guilt, a guilty plea, a plea of no contest, a plea of nolo contendere, a judgment of conviction even though the court suspended execution of sentence in accordance with subsection 3 of section 12.1-32-02, or a deferred imposition of sentence in accordance with subsection 4 of section 12.1-32-02 or an equivalent statute. The term does not include a finding of guilt overturned on appeal.

- b. "Crime against a child" means violation of sections 12.1-16-01, 12.1-16-02, 12.1-16-03, 12.1-16-04, 12.1-17-01.1, 12.1-17-02, 12.1-17-03, 12.1-17-04, 12.1-17-05, 12.1-17-06, 12.1-17-07, 12.1-17-07.1, 12.1-17-10, 12.1-18-01, 12.1-18-02, 12.1-18-03, 12.1-29-01, 12.1-29-02, or 12.1-29-03, or an equivalent ordinance, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt to commit these offenses.
- c. "Sexual offense" means a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-06, 12.1-20-07, 12.1-20-11, or 12.1-22-03.1, or chapter 12.1-27.2, or an equivalent ordinance.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2074 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 3

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 96 Nays 0 Absent 2

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,
at ____ o'clock _____ M.

Secretary of State