

**2001 DRAFTING REQUEST**

**Bill**

Received: 01/09/2001

Received By: mlief

Wanted: Soon

Identical to LRB:

For: Administration-Budget

By/Representing: Maternowski

This file may be shown to any legislator: NO

Drafter: mlief

May Contact:

Alt. Drafters:

Subject: Education - miscellaneous

Extra Copies: PG

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**Pre Topic:**

DOA:.....Maternowski -

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**Topic:**

Background investigations and licensing of teachers

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mlief 01/09/2001	hhagen 01/09/2001		_____			S&L
/1			martykr 01/09/2001	_____	lrb_docadmin 01/09/2001		

FE Sent For:

<END>

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1?	mlief	11 hmk 1/9/01	Km/g	RPN Km/g			

FE Sent For:

<END>

2001

Date (time) needed

SOON

LRB 1903 1 1

DOA BUDGET DRAFT

MJC: kmh:

Use the appropriate components and routines developed for bills.

>>FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION<<

AN ACT . . . [DO NOT generate catalog]; relating to: the budget. . . . .

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: . . . . . create → anal: → title: → head

For the subheading, execute: . . . . . create → anal: → title: → sub

For the sub-subheading, execute: . . . . . create → anal: → title: → sub-sub

For the analysis text, in the component bar:

For the text paragraph, execute: . . . . . create → anal: → text

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION #.

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

(B) CAPS  
 Education (H)  
 Primary and secondary education (S)

Do not generate

1 AN ACT to renumber and amend 115.31 (2g); to amend 115.28 (7) (b), 115.31  
 2 (title), 115.31 (2), 115.31 (6) (b), 115.31 (6) (c), 115.425 (5), 115.46 (3) (e), 118.19  
 3 (4) (a), 118.19 (4) (b) and 118.19 (10) (f); and to create 115.31 (1) (d), 115.31 (1)  
 4 (e), 115.31 (1) (f), 115.31 (2g) (b), 115.31 (2g) (br), 115.31 (7m), 118.19 (4) (am)  
 5 and 118.19 (10) (h) of the statutes; relating to: requiring the state  
 6 superintendent of public instruction to disclose the results of certain criminal  
 7 background investigations to educational agencies, requiring educational  
 8 agencies to release to the state superintendent of public instruction records  
 9 relating to certain employees of the educational agencies, and restricting,  
 10 suspending and revoking licenses and permits granted by the state  
 11 superintendent of public instruction.

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**Analysis by the Legislative Reference Bureau**

Current law requires the state superintendent of public instruction (state superintendent) to revoke, without a hearing, a license granted by the state superintendent if the licensee is convicted of any of a number of specified crimes. In addition, the state superintendent may revoke a license, with a hearing, if the

licensee is incompetent or behaves immorally. This bill requires the state superintendent to revoke a license (including a permit), without a hearing, if the licensee is convicted of a crime in another state or another country that is substantially similar to one of the specified crimes and allows the state superintendent to impose conditions or restrictions on a license or suspend a license, with a hearing, if the licensee is incompetent or behaves immorally.

Current law prohibits the state superintendent from granting a license to a person convicted of a number of specified crimes or of crime in another country or state that is equivalent to one of the specified crimes. This bill prohibits the state superintendent from granting a license, including a permit, to a person convicted of a number of specified crimes or of a crime in another state or country that is substantially similar to one of the specified crimes.

Under the common law, a court may deny public inspection of a record created or maintained by a public entity if the custodian of the record demonstrates that the public interest in nondisclosure of the information contained in the record outweighs the strong public interest in disclosure. This bill requires an educational agency (in general, a school district or a cooperative educational service agency) to release to the state superintendent all records relating to an employee or former employee of the educational agency who is licensed by the state superintendent if the state superintendent has commenced an investigation to determine whether to initiate license limitation, suspension, or revocation proceedings. The bill also requires the state superintendent to keep this released information confidential.

Current law generally prohibits the disclosure of the results of criminal background investigations conducted by the department of justice or the federal bureau of investigation for the state superintendent. This bill requires the state superintendent to disclose the results of criminal background investigations to an educational agency if the subject of the criminal background investigation is employed by or applying for employment with the educational agency and if the educational agency requests the information and the employee or applicant consents. The bill also requires the educational agency to keep this released information confidential.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           SECTION 1. 115.28 (7) (b) of the statutes is amended to read:

2           115.28 (7) (b) Subject to the same rules and laws concerning qualifications of  
3 applicants and, granting and revocation of licenses or certificates under par. (a), and  
4 limitation and suspension of licenses under s. 115.31, the state superintendent shall

1 grant certificates and licenses to teachers in private schools, except that teaching  
2 experience requirements for such certificates and licenses may be fulfilled by  
3 teaching experience in either public or private schools. An applicant is not eligible  
4 for a license or certificate unless the state superintendent finds that the private  
5 school in which the applicant taught offered an adequate educational program  
6 during the period of the applicant's teaching therein. Private schools are not  
7 obligated to employ only licensed or certified teachers.

8 SECTION 2. 115.31 (title) of the statutes is amended to read:

9 115.31 (title) **License or permit limitation, suspension, and revocation;**  
10 **reports; investigation.**

11 SECTION 3. 115.31 (1) (d) of the statutes is created to read:

12 115.31 (1) (d) "License" includes a permit issued under s. 118.192.

13 SECTION 4. 115.31 (1) (e) of the statutes is created to read:

14 115.31 (1) (e) "Limit" has the meaning under s. 440.01 (1) (d).

15 SECTION 5. 115.31 (1) (f) of the statutes is created to read:

16 115.31 (1) (f) "Suspend" has the meaning under s. 440.01 (1) (h).

17 SECTION 6. 115.31 (2) of the statutes is amended to read:

18 115.31 (2) Except as provided under sub. (2g), after written notice of the  
19 charges and of an opportunity for defense, any license granted by the state  
20 superintendent may be limited, suspended, or revoked by the state superintendent  
21 for incompetency or immoral conduct on the part of the licensee.

22 SECTION 7. 115.31 (2g) of the statutes is renumbered 115.31 (2g) (intro.) and  
23 amended to read:

1           115.31 (2g) (intro.) Notwithstanding subch. II of ch. 111, the state  
2 superintendent shall revoke a license granted by the state superintendent, without  
3 a hearing, if the licensee is convicted of any of the following:

4           (a) A Class A, B, C, or D felony under ch. 940 or 948, except ss. 940.08 and  
5 940.205, for a violation that occurs on or after September 12, 1991.

6           **SECTION 8.** 115.31 (2g) (b) of the statutes is created to read:

7           115.31 (2g) (b) A crime under the law of another state or another country that  
8 is substantially similar to a crime specified under par. (a), for a violation that occurs  
9 on or after the effective date of this paragraph .... [revisor inserts date].

10          **SECTION 9.** 115.31 (2g) (br) of the statutes is created to read:

11          115.31 (2g) (br) A Class BC felony under ch. 940 or 948 for a violation that  
12 occurs on or after the effective date of this paragraph .... [revisor inserts date].

13          **SECTION 10.** 115.31 (6) (b) of the statutes is amended to read:

14          115.31 (6) (b) Upon receiving a report under sub. (3) relating to a person  
15 licensed by the state superintendent, the state superintendent shall investigate to  
16 determine whether to initiate limitation, suspension, or revocation proceedings.  
17 During the investigation, the state superintendent shall keep confidential all  
18 information pertaining to the investigation except the fact that an investigation is  
19 being conducted and the date of the limitation, suspension, or revocation hearing.

20          **SECTION 11.** 115.31 (6) (c) of the statutes is amended to read:

21          115.31 (6) (c) Notwithstanding s. 16.61 (4), the department shall destroy all  
22 information pertaining to an investigation or a limitation, suspension, or revocation  
23 proceeding, other than the fact that a person was convicted of a crime described  
24 under sub. (3) (a) 1., 3 years from the date on which the investigation is terminated

1 or a final decision denying limitation, suspension, or revocation of the person's  
2 license is issued, whichever is later.

3 **SECTION 12.** 115.31 (7m) of the statutes is created to read:

4 115.31 (7m) At the request of the state superintendent, an educational agency  
5 shall disclose to the state superintendent all records relating to an employee or  
6 former employee of the educational agency who is licensed by the state  
7 superintendent if the state superintendent has commenced an investigation to  
8 determine whether to initiate limitation, suspension, or revocation proceedings  
9 under this section. The state superintendent shall keep confidential all information  
10 disclosed under this subsection.

11 **SECTION 13.** 115.425 (5) of the statutes, as affected by 1999 Wisconsin Act 32,  
12 is amended to read:

13 115.425 (5) Propose to the state superintendent standards and procedures for  
14 limiting, suspending, or revoking a teaching license.

15 **SECTION 14.** 115.46 (3) (e) of the statutes is amended to read:

16 115.46 (3) (e) The certification or other acceptance of a person who has been  
17 accepted pursuant to the terms of a contract shall not be revoked or otherwise  
18 impaired because the contract has expired or been terminated. However, any  
19 certificate or other qualifying document may be revoked, limited, or suspended on  
20 any ground which would be sufficient for revocation or suspension of a certificate or  
21 other qualifying document initially granted or approved in the receiving state.

22 **SECTION 15.** 118.19 (4) (a) of the statutes is amended to read:

23 118.19 (4) (a) Notwithstanding subch. II of ch. 111, the state superintendent  
24 may not grant a license to any person who has been convicted of any Class A, B, C,  
25 or D felony under ch. 940 or 948, except ss. 940.08 and 940.205, or of an equivalent

1 crime in another state or country, for a violation that occurs on or after September  
2 12, 1991, but before the effective date of this paragraph .... [revisor inserts date], for  
3 6 years following the date of the conviction, and may grant the license only if the  
4 person establishes by clear and convincing evidence that he or she is entitled to the  
5 license.

6 **SECTION 16.** 118.19 (4) (am) of the statutes is created to read:

7 118.19 (4) (am) Notwithstanding subch. II of ch. 111, the state superintendent  
8 may not grant a license to any person who has been convicted of any Class A, B, BC,  
9 C, or D felony under ch. 940 or 948, except ss. 940.08 and 940.205, or of a  
10 substantially similar crime in another state or country, for a violation that occurs on  
11 or after the effective date of this paragraph .... [revisor inserts date], for 6 years  
12 following the date of the conviction, and may grant the license only if the person  
13 establishes by clear and convincing evidence that he or she is entitled to the license.

14 **SECTION 17.** 118.19 (4) (b) of the statutes is amended to read:

15 118.19 (4) (b) Notwithstanding ~~par.~~ pars. (a) and (am), the state  
16 superintendent shall grant a license to a person convicted of a crime described under  
17 par. (a) or (am), prior to the expiration of the 6-year period following the conviction,  
18 if the conviction is reversed, set aside, or vacated.

19 **SECTION 18.** 118.19 (10) (f) of the statutes is amended to read:

20 118.19 (10) (f) The state superintendent shall keep confidential all information  
21 received under this subsection from the department of justice or the federal bureau  
22 of investigation. Except as provided in ~~par.~~ pars. (g) and (h), such information is not  
23 subject to inspection or copying under s. 19.35.

24 **SECTION 19.** 118.19 (10) (h) of the statutes is created to read:





State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-1903/1  
MJL:hmh:km

DOA:.....Maternowski – Background investigations and licensing of teachers

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**EDUCATION**

**PRIMARY AND SECONDARY EDUCATION**

Current law requires the state superintendent of public instruction (state superintendent) to revoke, without a hearing, a license granted by the state superintendent if the licensee is convicted of any of a number of specified crimes. In addition, the state superintendent may revoke a license, with a hearing, if the licensee is incompetent or behaves immorally. This bill requires the state superintendent to revoke a license (including a permit), without a hearing, if the licensee is convicted of a crime in another state or another country that is substantially similar to one of the specified crimes and allows the state superintendent to impose conditions or restrictions on a license or suspend a license, with a hearing, if the licensee is incompetent or behaves immorally.

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17 12, 1991, but before the effective date of this paragraph .... [revisor inserts date], for  
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1 or after the effective date of this paragraph .... [revisor inserts date], for 6 years  
2 following the date of the conviction, and may grant the license only if the person  
3 establishes by clear and convincing evidence that he or she is entitled to the license.

4 **SECTION 17.** 118.19 (4) (b) of the statutes is amended to read:

5 118.19 (4) (b) Notwithstanding ~~par.~~ pars. (a) and (am), the state  
6 superintendent shall grant a license to a person convicted of a crime described under  
7 par. (a) or (am), prior to the expiration of the 6-year period following the conviction,  
8 if the conviction is reversed, set aside, or vacated.

9 **SECTION 18.** 118.19 (10) (f) of the statutes is amended to read:

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11 received under this subsection from the department of justice or the federal bureau  
12 of investigation. Except as provided in ~~par.~~ pars. (g) and (h), such information is not  
13 subject to inspection or copying under s. 19.35.

14 **SECTION 19.** 118.19 (10) (h) of the statutes is created to read:

15 118.19 (10) (h) At the request of an educational agency and upon receiving  
16 signed consent from the employee or applicant, the state superintendent shall  
17 release to the educational agency the results of a background investigation under  
18 this subsection if the background investigation concerns a person who is employed  
19 by the educational agency or who is applying for a position with the educational  
20 agency. The educational agency shall keep confidential all information released  
21 under this paragraph.

22 (END)