



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2011 ASSEMBLY BILL 71**

May 18, 2011 – Offered by Representative KESTELL.

1 **AN ACT** *to amend* 19.356 (2) (a) (intro.), 115.31 (1) (c), 115.31 (3) (a) (intro.) and
2 115.31 (6) (b); *to repeal and recreate* 115.31 (6) (c); and *to create* 19.356 (2)
3 (d) of the statutes; **relating to:** revocation of a license issued by the Department
4 of Public Instruction.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Public Instruction (DPI) may, after written notice of the charges and an opportunity for defense, revoke any license granted by DPI for incompetency or immoral conduct on the part of the licensee. Current law defines “immoral conduct” as conduct that is contrary to commonly accepted moral or ethical standards and that endangers the health, safety, welfare, or education of any pupil.

This substitute amendment provides that “immoral conduct” includes the intentional use of an educational agency’s equipment to download, view, solicit, seek, display, or distribute pornographic material.

The substitute amendment also makes the following changes to the laws governing license revocation by DPI:

1. The substitute amendment requires an educational agency, when reporting to DPI about a licensee’s conduct, to include a complete copy of the licensee’s personnel file and all records related to any investigation of the licensee conducted

by or for the educational agency. The substitute amendment explicitly exempts the transfer of these records from an educational agency to DPI from the provision of the open records law that requires the entity disclosing a record to notify the subject of the record that it is disclosing the record.

2. The substitute amendment requires DPI to post on its Internet site the name of the licensee under investigation.

3. The substitute amendment requires DPI to maintain a record of all of the investigations that it conducts. The record must indicate the name of the licensee, the date the investigation began, the reason for the investigation, and the result of the investigation. If DPI revokes a license, it must post on its Internet site the name of the person whose license was revoked.

4. The substitute amendment eliminates the provision that requires DPI to destroy all information pertaining to an investigation or a revocation proceeding, with certain exceptions, within three years.

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

1 **SECTION 1.** 19.356 (2) (a) (intro.) of the statutes is amended to read:

2 19.356 **(2)** (a) (intro.) Except as provided in pars. (b) ~~and (c)~~ to (d) and as
3 otherwise authorized or required by statute, if an authority decides under s. 19.35
4 to permit access to a record specified in this paragraph, the authority shall, before
5 permitting access and within 3 days after making the decision to permit access, serve
6 written notice of that decision on any record subject to whom the record pertains,
7 either by certified mail or by personally serving the notice on the record subject. The
8 notice shall briefly describe the requested record and include a description of the
9 rights of the record subject under subs. (3) and (4). This paragraph applies only to
10 the following records:

11 **SECTION 2.** 19.356 (2) (d) of the statutes is created to read:

12 19.356 **(2)** (d) Paragraph (a) does not apply to the transfer of a record by the
13 administrator of an educational agency to the state superintendent of public
14 instruction under s. 115.31 (a).

1 **SECTION 3.** 115.31 (1) (c) of the statutes is amended to read:

2 115.31 **(1)** (c) “Immoral conduct” means conduct or behavior that is contrary to
3 commonly accepted moral or ethical standards and that endangers the health, safety,
4 welfare or education of any pupil. “Immoral conduct” includes the intentional use
5 of an educational agency’s equipment to download, view, solicit, seek, display, or
6 distribute pornographic material.

7 **SECTION 4.** 115.31 (3) (a) (intro.) of the statutes is amended to read:

8 115.31 **(3)** (a) (intro.) Report to the state superintendent the name of any person
9 employed by the educational agency and licensed by the state superintendent, and
10 include a complete copy of the licensee’s personnel file and all records related to any
11 investigation of the licensee conducted by or on behalf of the educational agency, if
12 any of the following occurs:

13 **SECTION 5.** 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 revocation proceedings. The state superintendent
17 shall post on the department’s Internet site the name of the licensee who is under
18 investigation. During the investigation, the state superintendent shall keep
19 confidential all information pertaining to the investigation except the fact that an
20 investigation is being conducted and the date of the revocation hearing.

21 **SECTION 6.** 115.31 (6) (c) of the statutes is repealed and recreated to read:

22 115.31 **(6)** (c) The department shall maintain a record of all investigations
23 conducted under par. (b) that indicates the name of the licensee, the date the
24 investigation began, the reason for the investigation, and the result of the
25 investigation. Whenever an investigation results in the revocation of a license, the

1 department shall post on its Internet site the name of the person whose license was
2 revoked.

3 (END)