

Angelo, Boettger, Harper

SSB 3148
Education

Succeeded By
S.D.H.F. 2258

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
EDUCATION BILL BY
CHAIRPERSON BOETTGER)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the board of educational examiners' authority
2 to determine whether an applicant for licensure or
3 certification or for renewal of a license is qualified for the
4 license sought.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 272.2, subsection 14, Code Supplement
2 2001, is amended by striking the subsection and inserting in
3 lieu thereof the following:

4 14. Adopt rules to determine whether an applicant is
5 qualified to perform the duties for which a license is sought.
6 The rules shall include all of the following:

7 a. The board shall deny a license to or revoke the license
8 of a person upon the board's finding by a preponderance of
9 evidence that either the person has been convicted of a crime
10 or that there has been a founded report of child abuse against
11 the person. Rules adopted in accordance with this paragraph
12 "a" shall provide that in determining whether a person should
13 be denied a license or that a practitioner's license should be
14 revoked, the board shall consider the nature and seriousness
15 of the founded abuse or crime committed, the degree of
16 rehabilitation which has taken place since the incidence of
17 founded abuse or the commission of the crime, the likelihood
18 that the person will commit the same abuse or crime again, and
19 the number of founded abuses committed or criminal convictions
20 by the person involved.

21 b. Notwithstanding paragraph "a", the rules shall require
22 the board to disqualify an applicant for a license or to
23 revoke the license of a person for any of the following
24 reasons:

25 (1) The person entered a plea of guilty to, or has been
26 found guilty of, any of the following offenses established
27 pursuant to Iowa law or offenses of a similar nature
28 established under the laws of any other state or of the United
29 States, or any other country, whether or not a sentence is
30 imposed:

31 (a) Any forcible felony as defined in section 702.11.

32 (b) Any of the following sexual abuse offenses, as
33 provided in chapter 709, involving a child:

34 (i) First, second, or third degree sexual abuse committed
35 on or with a person who is under the age of eighteen years.

- 1 (ii) Lascivious acts with a child.
2 (iii) Detention in a brothel.
3 (iv) Assault with intent to commit sexual abuse.
4 (v) Indecent contact with a child.
5 (vi) Sexual exploitation by a counselor.
6 (vii) Lascivious conduct with a minor.
7 (c) Any of the following offenses against family members
8 or dependents, as provided in chapter 726, involving a child:
9 (i) Incest.
10 (ii) Neglect or abandonment of a dependent person.
11 (iii) Child endangerment.
12 (iv) Wanton neglect of a resident of a health care
13 facility.
14 (d) Any of the following obscenity offenses, as provided
15 in chapter 728, involving a child:
16 (i) Dissemination or exhibition of obscene material to
17 minors.
18 (ii) Admitting minors to premises where obscene material
19 is exhibited.
20 (iii) Sexual exploitation of minors.
21 (iv) Telephone dissemination of obscene material to
22 minors.
23 (2) The applicant is less than twenty-one years of age.
24 However, a student enrolled in a practitioner preparation
25 program who meets board requirements for a temporary, limited-
26 purpose license who is seeking to teach as part of a practicum
27 or internship may be less than twenty-one years of age.
28 (3) The applicant's application is fraudulent.
29 (4) The applicant's license or certification from another
30 state is suspended or revoked.
31 (5) The applicant fails to meet board standards for
32 application for an initial or renewed license.
33 c. Qualifications or criteria for the granting or
34 revocation of a license or the determination of an
35 individual's professional standing shall not include

1 membership or nonmembership in any teachers' organization.

2 d. An applicant for a license or certificate under this
3 chapter shall demonstrate that the requirements of the license
4 or certificate have been met and the burden of proof shall be
5 on the applicant.

6 Sec. 2. Section 272.12, Code 2001, is amended to read as
7 follows:

8 272.12 PARA-EDUCATOR CERTIFICATES.

9 The board of educational examiners shall adopt rules
10 pursuant to chapter 17A relating to a voluntary certification
11 system for para-educators. The rules shall specify rights,
12 responsibilities, levels, and qualifications for the
13 certificate. Applicants shall be disqualified for any reason
14 specified in section ~~272-6~~ 272.2, subsection 14, or in
15 administrative rule. Notwithstanding section ~~272-6~~ 272.2,
16 subsection ~~±~~ 14, paragraph "a" "b", subparagraph (2), the
17 board may issue a para-educator certificate to a person who is
18 at least eighteen years of age. A person holding a para-
19 educator certificate shall not perform the duties of a
20 licensed practitioner. A certificate issued pursuant to this
21 chapter shall not be considered a teacher or administrator
22 license for any purpose specified by law, including the
23 purposes specified under this chapter or chapter 279.

24 Sec. 3. Section 272.6, Code 2001, is repealed.

25 EXPLANATION

26 This bill strikes, repeals, transfers, and rewrites
27 provisions of the Code relating to the board of educational
28 examiners' authority to adopt rules to determine whether an
29 applicant for licensure or renewal of licensure is qualified
30 for the license sought.

31 The Code currently authorizes the board to consider the
32 nature and seriousness of a founded abuse or crime committed
33 by the applicant, the time elapsed since the founded abuse or
34 crime was committed, the degree of rehabilitation that has
35 since taken place, the likelihood that the person will commit

1 the incidence of founded abuse or crime again, and the number
2 of founded abuses and crimes committed by the person. The
3 bill also authorizes the board to consider these
4 circumstances, but specifically lists certain crimes and
5 offenses and requires the board to deny or revoke a license if
6 the person seeking the license or renewal commits any of the
7 offenses or crimes enumerated by the bill.

8 The bill makes conforming changes to Code language relating
9 to para-educator certificates.

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UNFINISHED BUSINESS CALENDAR
3/21/02

H- 2/27/02 Education
H- 3/2/02 Amend/Do Bus W/H8249

FILED FEB 20 2002

SENATE FILE 2258
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SSB 3148)

Passed Senate, Date 2/27/02
Vote: Ayes 46 Nays 0

Passed House, Date 3-25-02
Vote: Ayes 92 Nays 0

Approved April 26, 2002

Re-passed 4-12-02
Vote 45-0

Re-passed 4-12-02
Vote 93-0 (P. 1505)

(P. 1171)

A BILL FOR

1 An Act relating to the board of educational examiners' authority
2 to determine whether an applicant for licensure or
3 certification or for renewal of a license is qualified for the
4 license sought.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SF 2258

SENATE FILE 2258

H-8249

1 Amend Senate File 2258, as passed by the Senate, as
2 follows:

3 1. Page 1, line 15, by inserting after the word
4 "crime" the following: "in relation to the position
5 sought, the time elapsed since the crime was".

6 2. Page 1, by striking line 31 and inserting the
7 following:

8 "(a) Any of the following forcible felonies
9 included in section 702.11: child endangerment,
10 assault, murder, sexual abuse, or kidnapping."

11 3. Page 2, by striking lines 7 through 22 and
12 inserting the following:

13 "(c) Incest involving a child under section
14 726.2."

15 4. By renumbering as necessary.

By BY COMMITTEE ON EDUCATION
GRUNDBERG of Polk, Chairperson

H-8249 FILED MARCH 12, 2002

adopted 3-25-02 (P. 858)

1 Section 1. Section 272.2, subsection 14, Code Supplement
2 2001, is amended by striking the subsection and inserting in
3 lieu thereof the following:

4 14. Adopt rules to determine whether an applicant is
5 qualified to perform the duties for which a license is sought.
6 The rules shall include all of the following:

7 a. The board shall deny a license to or revoke the license
8 of a person upon the board's finding by a preponderance of
9 evidence that either the person has been convicted of a crime
10 or that there has been a founded report of child abuse against
11 the person. Rules adopted in accordance with this paragraph
12 "a" shall provide that in determining whether a person should
13 be denied a license or that a practitioner's license should be
14 revoked, the board shall consider the nature and seriousness
15 of the founded abuse or crime committed, the degree of
16 rehabilitation which has taken place since the incidence of
17 founded abuse or the commission of the crime, the likelihood
18 that the person will commit the same abuse or crime again, and
19 the number of founded abuses committed or criminal convictions
20 by the person involved.

21 b. Notwithstanding paragraph "a", the rules shall require
22 the board to disqualify an applicant for a license or to
23 revoke the license of a person for any of the following
24 reasons:

25 (1) The person entered a plea of guilty to, or has been
26 found guilty of, any of the following offenses established
27 pursuant to Iowa law or offenses of a similar nature
28 established under the laws of any other state or of the United
29 States, or any other country, whether or not a sentence is
30 imposed:

31 (a) Any forcible felony as defined in section 702.11.

32 (b) Any of the following sexual abuse offenses, as
33 provided in chapter 709, involving a child:

34 (i) First, second, or third degree sexual abuse committed
35 on or with a person who is under the age of eighteen years.

- 1 (ii) Lascivious acts with a child.
- 2 (iii) Detention in a brothel.
- 3 (iv) Assault with intent to commit sexual abuse.
- 4 (v) Indecent contact with a child.
- 5 (vi) Sexual exploitation by a counselor.
- 6 (vii) Lascivious conduct with a minor.
- 7 (c) Any of the following offenses against family members
- 8 or dependents, as provided in chapter 726, involving a child:
 - 9 (i) Incest.
 - 10 (ii) Neglect or abandonment of a dependent person.
 - 11 (iii) Child endangerment.
 - 12 (iv) Wanton neglect of a resident of a health care
 - 13 facility.
- 14 (d) Any of the following obscenity offenses, as provided
- 15 in chapter 728, involving a child:
 - 16 (i) Dissemination or exhibition of obscene material to
 - 17 minors.
 - 18 (ii) Admitting minors to premises where obscene material
 - 19 is exhibited.
 - 20 (iii) Sexual exploitation of minors.
 - 21 (iv) Telephone dissemination of obscene material to
 - 22 minors.
- 23 (2) The applicant is less than twenty-one years of age.
- 24 However, a student enrolled in a practitioner preparation
- 25 program who meets board requirements for a temporary, limited-
- 26 purpose license who is seeking to teach as part of a practicum
- 27 or internship may be less than twenty-one years of age.
- 28 (3) The applicant's application is fraudulent.
- 29 (4) The applicant's license or certification from another
- 30 state is suspended or revoked.
- 31 (5) The applicant fails to meet board standards for
- 32 application for an initial or renewed license.
- 33 c. Qualifications or criteria for the granting or
- 34 revocation of a license or the determination of an
- 35 individual's professional standing shall not include

1 membership or nonmembership in any teachers' organization.

2 d. An applicant for a license or certificate under this
3 chapter shall demonstrate that the requirements of the license
4 or certificate have been met and the burden of proof shall be
5 on the applicant.

6 Sec. 2. Section 272.12, Code 2001, is amended to read as
7 follows:

8 272.12 PARA-EDUCATOR CERTIFICATES.

9 The board of educational examiners shall adopt rules
10 pursuant to chapter 17A relating to a voluntary certification
11 system for para-educators. The rules shall specify rights,
12 responsibilities, levels, and qualifications for the
13 certificate. Applicants shall be disqualified for any reason
14 specified in section ~~272.6~~ 272.2, subsection 14, or in
15 administrative rule. Notwithstanding section ~~272.6~~ 272.2,
16 subsection ~~1~~ 14, paragraph "a" "b", subparagraph (2), the
17 board may issue a para-educator certificate to a person who is
18 at least eighteen years of age. A person holding a para-
19 educator certificate shall not perform the duties of a
20 licensed practitioner. A certificate issued pursuant to this
21 chapter shall not be considered a teacher or administrator
22 license for any purpose specified by law, including the
23 purposes specified under this chapter or chapter 279.

24 Sec. 3. Section 272.6, Code 2001, is repealed.

25 EXPLANATION

26 This bill strikes, repeals, transfers, and rewrites
27 provisions of the Code relating to the board of educational
28 examiners' authority to adopt rules to determine whether an
29 applicant for licensure or renewal of licensure is qualified
30 for the license sought.

31 The Code currently authorizes the board to consider the
32 nature and seriousness of a founded abuse or crime committed
33 by the applicant, the time elapsed since the founded abuse or
34 crime was committed, the degree of rehabilitation that has
35 since taken place, the likelihood that the person will commit

1 the incidence of founded abuse or crime again, and the number
2 of founded abuses and crimes committed by the person. The
3 bill also authorizes the board to consider these
4 circumstances, but specifically lists certain crimes and
5 offenses and requires the board to deny or revoke a license if
6 the person seeking the license or renewal commits any of the
7 offenses or crimes enumerated by the bill.

8 The bill makes conforming changes to Code language relating
9 to para-educator certificates.

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SENATE FILE 2258

S-5429

1 Amend the House amendment, S-5256, to Senate File
2 2258, as passed by the Senate, as follows:

3 1. Page 1, by striking line 17 and inserting the
4 following: "726.2.

5 (d) Dissemination and exhibition of obscene
6 material to minors under section 728.2.

7 (e) Telephone dissemination of obscene material to
8 minors under section 728.15.""

9 2. By renumbering as necessary.

By JEFF ANGELO

S-5429 FILED APRIL 9, 2002

adapted 4/12/02 (p. 1170)

HOUSE AMENDMENT TO
SENATE FILE 2258

S-5256

- 1 Amend Senate File 2258, as passed by the Senate, as
2 follows:
3 1. Page 1, line 9, by inserting after the word
4 "crime" the following: ", as enumerated in paragraph
5 "b",
6 2. Page 1, line 15, by inserting after the word
7 "crime" the following: "in relation to the position
8 sought, the time elapsed since the crime was".
9 3. Page 1, by striking line 31 and inserting the
10 following:
11 "(a) Any of the following forcible felonies
12 included in section 702.11: child endangerment,
13 assault, murder, sexual abuse, or kidnapping."
14 4. Page 2, by striking lines 7 through 22 and
15 inserting the following:
16 "(c) Incest involving a child under section
17 726.2."
18 5. Page 2, line 23, by inserting after the word
19 "age" the following: "except as provided in section
20 272.31, subsection 1, paragraph "e".
21 6. By renumbering as necessary.

RECEIVED FROM THE HOUSE

Senate Concurred 4/12/02
S-5256 FILED MARCH 26, 2002 (P. 1170)

SENATE FILE 2258

S-5281

- 1 Amend the House amendment, S-5256, to Senate File
2 2258, as passed by the Senate, as follows:
3 1. Page 1, by inserting after line 2 the
4 following:
5 "____. Page 1, line 7, by striking the word
6 "shall" and inserting the following: "may"."
7 2. Page 1, by striking lines 3 through 5.
8 3. Page 1, by inserting before line 6 the
9 following:
10 "____. Page 1, line 12, by striking the letter
11 "'a'".
12 4. By renumbering as necessary.

By JEFF ANGELO

S-5281 FILED APRIL 1, 2002

Adapted
4-12-02 (P. 1170)

MARCH 22, 2002

SENATE FILE 2258

H-8407

1 Amend the amendment, H-8249, to Senate File 2258,
2 as passed by the Senate, as follows:
3 1. Page 1, by inserting after line 2 the
4 following:
5 "___". Page 1, line 9, by inserting after the word
6 "crime" the following: ", as enumerated in paragraph
7 "b", ".
8 2. By renumbering as necessary.

By STEVENS of Dickinson

H-8407 FILED MARCH 21, 2002

Adopted

3-25-02

(p 858)

SENATE FILE 2258

H-8413

1 Amend the amendment, H-8249, to Senate File 2258,
2 as passed by the Senate, as follows:
3 1. Page 1, by inserting after line 14 the
4 following:
5 "___". Page 2, line 23, by inserting after the
6 word "age" the following: "except as provided in
7 section 272.31, subsection 1, paragraph "e"."

By MASCHER of Johnson

H-8413 FILED MARCH 21, 2002

Adopted

3-25-02

(p 858)

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 2258

H-8697

1 Amend the House amendment, S-5256, to Senate File
2 2258, as passed by the Senate, as follows:

3 1. Page 1, by inserting after line 2 the
4 following:

5 "____". Page 1, line 7, by striking the word
6 "shall" and inserting the following: "may".

7 2. Page 1, by striking lines 3 through 5.

8 3. Page 1, by inserting before line 6 the
9 following:

10 "____". Page 1, line 12, by striking the letter
11 "'a'".

12 4. Page 1, by striking line 17 and inserting the
13 following: "726.2.

14 (d) Dissemination and exhibition of obscene
15 material to minors under section 728.2.

16 (e) Telephone dissemination of obscene material to
17 minors under section 728.15."

18 5. By renumbering, relettering, or redesignating
19 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-8697 FILED APRIL 12, 2002

House Concurred

4/12/02

(P. 1504)

SENATE FILE 2258

AN ACT

RELATING TO THE BOARD OF EDUCATIONAL EXAMINERS' AUTHORITY
TO DETERMINE WHETHER AN APPLICANT FOR LICENSURE OR
CERTIFICATION OR FOR RENEWAL OF A LICENSE IS QUALIFIED
FOR THE LICENSE SOUGHT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 272.2, subsection 14, Code Supplement 2001, is amended by striking the subsection and inserting in lieu thereof the following:

14. Adopt rules to determine whether an applicant is qualified to perform the duties for which a license is sought. The rules shall include all of the following:

a. The board may deny a license to or revoke the license of a person upon the board's finding by a preponderance of evidence that either the person has been convicted of a crime or that there has been a founded report of child abuse against the person. Rules adopted in accordance with this paragraph shall provide that in determining whether a person should be denied a license or that a practitioner's license should be revoked, the board shall consider the nature and seriousness of the founded abuse or crime in relation to the position

sought, the time elapsed since the crime was committed, the degree of rehabilitation which has taken place since the incidence of founded abuse or the commission of the crime, the likelihood that the person will commit the same abuse or crime again, and the number of founded abuses committed or criminal convictions by the person involved.

b. Notwithstanding paragraph "a", the rules shall require the board to disqualify an applicant for a license or to revoke the license of a person for any of the following reasons:

(1) The person entered a plea of guilty to, or has been found guilty of, any of the following offenses established pursuant to Iowa law or offenses of a similar nature established under the laws of any other state or of the United States, or any other country, whether or not a sentence is imposed:

(a) Any of the following forcible felonies included in section 702.11: child endangerment, assault, murder, sexual abuse, or kidnapping.

(b) Any of the following sexual abuse offenses, as provided in chapter 709, involving a child:

(i) First, second, or third degree sexual abuse committed on or with a person who is under the age of eighteen years.

(ii) Lascivious acts with a child.

(iii) Detention in a brothel.

(iv) Assault with intent to commit sexual abuse.

(v) Indecent contact with a child.

(vi) Sexual exploitation by a counselor.

(vii) Lascivious conduct with a minor.

(c) Incest involving a child under section 726.2.

(d) Dissemination and exhibition of obscene material to minors under section 728.2.

(e) Telephone dissemination of obscene material to minors under section 728.15.

S.F. 2258

(2) The applicant is less than twenty-one years of age except as provided in section 272.31, subsection 1, paragraph "e". However, a student enrolled in a practitioner preparation program who meets board requirements for a temporary, limited-purpose license who is seeking to teach as part of a practicum or internship may be less than twenty-one years of age.

(3) The applicant's application is fraudulent.

(4) The applicant's license or certification from another state is suspended or revoked.

(5) The applicant fails to meet board standards for application for an initial or renewed license.

c. Qualifications or criteria for the granting or revocation of a license or the determination of an individual's professional standing shall not include membership or nonmembership in any teachers' organization.

d. An applicant for a license or certificate under this chapter shall demonstrate that the requirements of the license or certificate have been met and the burden of proof shall be on the applicant.

Sec. 2. Section 272.12, Code 2001, is amended to read as follows:

272.12 PARA-EDUCATOR CERTIFICATES.

The board of educational examiners shall adopt rules pursuant to chapter 17A relating to a voluntary certification system for para-educators. The rules shall specify rights, responsibilities, levels, and qualifications for the certificate. Applicants shall be disqualified for any reason specified in section ~~272.6~~ 272.2, subsection 14, or in administrative rule. Notwithstanding section ~~272.6~~ 272.2, subsection ~~1~~ 14, paragraph "a" "b", subparagraph (2), the board may issue a para-educator certificate to a person who is at least eighteen years of age. A person holding a para-educator certificate shall not perform the duties of a licensed practitioner. A certificate issued pursuant to this

chapter shall not be considered a teacher or administrator license for any purpose specified by law, including the purposes specified under this chapter or chapter 279.

Sec. 3. Section 272.6, Code 2001, is repealed.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2258, Seventy-ninth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved *April 26*, 2002

THOMAS J. VILSACK
Governor