

House Study Bill 554 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED BOARD OF
EDUCATIONAL EXAMINERS BILL)

A BILL FOR

1 An Act relating to school employees and the duties and
2 responsibilities of the board of educational examiners, and
3 providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 272.1, Code 2014, is amended by adding
2 the following new unnumbered paragraph:

3 NEW UNNUMBERED PARAGRAPH. As used in this chapter, unless
4 the context otherwise requires:

5 Sec. 2. Section 272.1, subsections 3 and 5, Code 2014, are
6 amended to read as follows:

7 3. "*Certificate*" means limited recognition to perform
8 instruction and instruction-related duties in school, other
9 than those duties for which practitioners are licensed. A
10 ~~certificate is nonexclusive recognition and does not confer the~~
11 ~~exclusive authority of a license.~~

12 5. "*License*" means the authority that is given to allow a
13 person to legally serve as a practitioner, education provider,
14 or school employee, or as a school, an institution, or a course
15 of study to legally offer professional development programs,
16 other than those programs offered by practitioner preparation
17 schools, institutions, courses of study, or area education
18 agencies. A license is the exclusive authority to perform
19 these functions. "License" includes a certificate, statement of
20 professional recognition, or authorization issued under this
21 chapter.

22 Sec. 3. Section 272.1, Code 2014, is amended by adding the
23 following new subsection:

24 NEW SUBSECTION. 12A. "*School employee*" means an employee
25 of a school.

26 Sec. 4. Section 272.2, subsection 1, Code 2014, is amended
27 to read as follows:

28 1. a. License practitioners, education providers, and
29 school employees, which includes the authority to establish
30 criteria for the licenses; establish issuance and renewal
31 requirements; create application and renewal forms; create
32 licenses that authorize different instructional functions
33 or specialties; develop a code of professional rights and
34 responsibilities, practices, and ethics, which shall, among
35 other things, address the failure of a practitioner to fulfill

1 contractual obligations under section 279.13; and develop any
2 other classifications, distinctions, and procedures which may
3 be necessary to exercise licensing duties. In addressing the
4 failure of a practitioner to fulfill contractual obligations,
5 the board shall consider factors beyond the practitioner's
6 control.

7 *b.* Provide annually to any person who holds a license,
8 ~~certificate, authorization, or statement of recognition~~
9 issued by the board, training relating to the knowledge and
10 understanding of the board's code of professional conduct and
11 ethics. The board shall develop a curriculum that addresses
12 the code of professional conduct and ethics and shall annually
13 provide regional training opportunities throughout the state.

14 Sec. 5. Section 272.2, subsection 4, Code 2014, is amended
15 to read as follows:

16 4. Enforce rules adopted by the board through revocation
17 or suspension of a license, or by other disciplinary action
18 against a ~~practitioner~~ person or professional development
19 program licensed by the board of educational examiners. The
20 board shall designate who may or shall initiate a licensee
21 disciplinary investigation and a licensee disciplinary
22 proceeding, and who shall prosecute a disciplinary proceeding
23 and under what conditions, and shall state the procedures for
24 review by the board of findings of fact if a majority of the
25 board does not hear the disciplinary proceeding. However, in
26 a case alleging failure of a ~~practitioner~~ person to fulfill
27 contractual obligations, the person who files a complaint with
28 the board, or the complainant's designee, shall represent the
29 complainant in a disciplinary hearing conducted in accordance
30 with this chapter.

31 Sec. 6. Section 272.2, subsection 14, paragraphs a and d,
32 Code 2014, are amended to read as follows:

33 *a.* The board may deny a license to or revoke the license
34 of a person upon the board's finding by a preponderance of
35 evidence that either the person has been convicted of a crime

1 or that there has been a founded report of child abuse against
2 the person. Rules adopted in accordance with this paragraph
3 shall provide that in determining whether a person should be
4 denied a license or that a ~~practitioner's~~ person's license
5 should be revoked, the board shall consider the nature and
6 seriousness of the founded abuse or crime in relation to
7 the position sought, the time elapsed since the crime was
8 committed, the degree of rehabilitation which has taken place
9 since the incidence of founded abuse or the commission of
10 the crime, the likelihood that the person will commit the
11 same abuse or crime again, and the number of founded abuses
12 committed by or criminal convictions of the person involved.

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

17 Sec. 7. Section 272.2, subsection 17, Code 2014, is amended
18 to read as follows:

19 17. Adopt rules to require that a background investigation
20 be conducted by the division of criminal investigation of the
21 department of public safety on ~~all initial~~ applicants for
22 ~~licensure~~ a license or renewal of a license. The board shall
23 also require all initial applicants to submit a completed
24 fingerprint packet and shall use the packet to facilitate a
25 national criminal history background check. The board shall
26 have access to, and shall review the sex offender registry
27 information under section 692A.121 available to the general
28 public, the central registry for child abuse information
29 established under chapter 235A, and the dependent adult abuse
30 records maintained under chapter 235B for information regarding
31 applicants for a license or renewal of a license. An applicant
32 for a license or renewal of a license issued pursuant to
33 section 272.31, subsection 3A, is exempt from rules adopted
34 pursuant to this subsection.

35 Sec. 8. Section 272.15, subsection 1, paragraph a,

1 subparagraph (1), unnumbered paragraph 1, Code 2014, is amended
2 to read as follows:

3 The board of directors of a school district or area education
4 agency, the superintendent of a school district, the chief
5 administrator of an area education agency, and the authorities
6 in charge of an accredited nonpublic school shall report to
7 the board any instance of disciplinary action taken against
8 a ~~licensed~~ school employee by the board of directors of the
9 school district or area education agency, the superintendent
10 of the school district, the chief administrator of the
11 area education agency, or the authorities in charge of the
12 accredited nonpublic school for conduct constituting any of the
13 following:

14 Sec. 9. Section 272.15, subsection 1, paragraph a,
15 subparagraph (2), Code 2014, is amended to read as follows:

16 (2) The board of directors of a school district or area
17 education agency, the superintendent of a school district,
18 the chief administrator of an area education agency, and
19 the authorities in charge of an accredited nonpublic school
20 shall report to the board the nonrenewal or termination, for
21 reasons of alleged or actual misconduct, of a person's contract
22 executed under sections 279.12, 279.13, 279.15 through 279.21,
23 279.23, and 279.24, and the resignation of a person who holds
24 a ~~license, certificate, or authorization~~ issued by the board,
25 as a result of or following an incident or allegation of
26 misconduct that, if proven, would constitute a violation of
27 the rules adopted by the board to implement section 272.2,
28 subsection 14, paragraph "b", subparagraph (1); soliciting,
29 encouraging, or consummating a romantic or otherwise
30 inappropriate relationship with a student; falsifying student
31 grades, test scores, or other official information or material;
32 or converting public property or funds to the personal use of
33 the school employee, when the board or reporting official has a
34 good faith belief that the incident occurred or the allegation
35 is true. The board may deny a license or revoke the license

1 of an administrator if the board finds by a preponderance
2 of the evidence that the administrator failed to report the
3 termination or resignation of a school employee holding a
4 license, ~~certificate, statement of professional recognition,~~
5 ~~or coaching authorization,~~ for reasons of alleged or actual
6 misconduct, as defined by this section.

7 Sec. 10. Section 272.31, Code 2014, is amended by adding the
8 following new subsection:

9 NEW SUBSECTION. 3A. The board shall issue a school employee
10 authorization to a school employee who is not otherwise
11 issued a license, certificate, or statement of professional
12 recognition under this chapter, or an authorization under
13 subsection 1, 2, or 3.

14 Sec. 11. Section 709.15, subsection 1, paragraph f, Code
15 2014, is amended to read as follows:

16 *f.* ~~"School employee" means a practitioner as defined in~~
17 section 272.1 an individual issued a license, certificate,
18 statement of professional recognition, or authorization under
19 chapter 272.

20 EXPLANATION

21 The inclusion of this explanation does not constitute agreement with
22 the explanation's substance by the members of the general assembly.

23 This bill requires the board of educational examiners
24 to issue an authorization to school employees who are not
25 currently under the purview of the board, and provides that
26 the board's code of professional rights and responsibilities,
27 practices, and ethics applies to any person who holds
28 a license, certificate, authorization, or statement of
29 professional recognition issued by the board. The board will
30 be required to provide such employees with training relating to
31 the board's code.

32 The bill amends the definition of "license" by providing
33 that the definition means the authority given to allow a person
34 to legally serve as a practitioner, education provider, or
35 school employee, and further adds that "license" includes

1 a certificate, statement of professional recognition, or
2 authorization issued under Code chapter 272.

3 The bill defines "school employee" to mean any employee of a
4 school district, accredited nonpublic school, or area education
5 agency. The bill makes corresponding changes relating to the
6 adoption of the definition throughout the Code chapter.

7 The bill also requires the board to adopt rules to require
8 a background investigation by the division of criminal
9 investigation of the department of public safety on any
10 applicant for a license and any applicant seeking to renew a
11 license. Current law requires the background check only on
12 initial applicants for licensure. The bill exempts from such
13 rules applicants for a school employee authorization or renewal
14 of that authorization.

15 The bill also broadens Code language establishing reporting
16 and complaint requirements relating to disciplinary actions,
17 and reports of nonrenewal of contract, or termination or
18 resignation of an employee for reasons of alleged or actual
19 misconduct, by school districts, schools, and area education
20 agencies and their administrators, to cover all school
21 employees, not just licensed employees or those employees
22 currently holding certificates or authorizations.

23 The bill also amends the definition of "school employee"
24 used for purposes of the Code provision that establishes
25 criminal penalties for sexual exploitation by a school
26 employee. The bill broadens the definition to include not just
27 a practitioner but any individual to whom the board issues a
28 license, certificate, statement of professional recognition,
29 or authorization. This broadening of the offense of sexual
30 exploitation results in making school employees subject to the
31 sex offender registry, but does not classify the offense as a
32 forcible felony. Under the bill, a school employee who commits
33 sexual exploitation in violation of Code section 709.15(5)
34 commits either an aggravated misdemeanor, which is punishable
35 by confinement for no more than two years and a fine of at least

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1 \$625 but not more than \$6,250; or a class "D" felony, which is
2 punishable by confinement for no more than five years and a
3 fine of at least \$750 but not more than \$7,500.