

Introduced by Senator Scott

February 16, 2001

An act to amend Sections 44010, 44230, 44346.1, and 44424 of the Education Code, relating to teacher credentialing.

LEGISLATIVE COUNSEL'S DIGEST

SB 299, as introduced, Scott. Teacher credentialing.

(1) Existing law defines the term "sex offense" as used in provisions relating to school employees, in part, by referring to Penal Code provisions of law and includes in that definition any offense committed or attempted in any other state which if committed or attempted in this state would have been punishable as one of the offenses referred to in the Penal Code provisions.

This bill would include in the definition of "sex offense" any offense against the laws of the United States which if committed or attempted in this state would have been punishable as one of the offenses referred to in the cited Penal Code provisions.

(2) Existing law requires the Commission on Teacher Credentialing to maintain for public record certain enumerated information and authorizes the commission to disclose that information.

This bill would, notwithstanding any other provision of law, prohibit the disclosure by the commission of information other than the information maintained for public record absent an order from a court of competent jurisdiction.

(3) Existing law requires the Commission on Teacher Credentialing to deny an application for the issuance of a credential made by an applicant who has been convicted of a violent or serious felony, as defined, or certain other enumerated crimes, or whose employment has been denied or terminated because of a conviction of a violent or serious

felony. Existing law prohibits the denial of a credential solely on the basis that the applicant was convicted of a violent or serious felony if the person has a certificate of rehabilitation and pardon.

This bill would, notwithstanding the above provision, authorize the commission to grant a credential to an applicant who was convicted of certain crimes if the accusation or information against the person is dismissed and he or she is released from all disabilities and penalties resulting from the offense. The bill would authorize the commission also to grant a credential to an applicant who was convicted of a violent or serious felony if the person has a certificate of rehabilitation and pardon.

(4) Existing law requires the commission to immediately revoke the credential of a holder whose conviction of certain crimes becomes final, and prohibits the revocation of a credential solely on the basis that the applicant was convicted of a violent or serious felony if the person has a certificate of rehabilitation and pardon.

This bill would, notwithstanding the above provision, provide that the commission is not required to revoke the credential of a holder who was convicted of a violent or serious felony if the person has a certificate of rehabilitation and pardon. The bill would provide that the commission also is not required to revoke the credential of a holder if the accusation or information against the holder is dismissed and he or she is released from all disabilities and penalties resulting from the offense.

(5) The bill would make other technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44010 of the Education Code is
 2 amended to read:
 3 44010. "Sex offense," as used in Sections 44020, 44237,
 4 44346, 44425, 44436, 44836, 45123, and 45304, means any one
 5 or more of the offenses listed below:
 6 (a) Any offense defined in Section 220, 261, 261.5, 262, 264.1,
 7 266, 266j, 267, 285, 286, 288, 288a, 289, 311.1, 311.2, 311.3,
 8 311.4, 311.10, 311.11, 313.1, 647b, 647.6, or former Section 647a,
 9 subdivision (a), (b), or (c) of Section 243.4, or subdivision (a) or
 10 (d) of Section 647 of the Penal Code.



1 (b) Any offense defined in former subdivision (5) of former
2 Section 647 of the Penal Code repealed by Chapter 560 of the
3 Statutes of 1961, or any offense defined in former subdivision (2)
4 of former Section 311 of the Penal Code repealed by Chapter 2147
5 of the Statutes of 1961, if the offense defined in those sections was
6 committed prior to September 15, 1961, to the same extent that an
7 offense committed prior to that date was a sex offense for the
8 purposes of this section prior to September 15, 1961.

9 (c) Any offense defined in Section 314 of the Penal Code
10 committed on or after September 15, 1961.

11 (d) Any offense defined in former subdivision (1) of former
12 Section 311 of the Penal Code repealed by Chapter 2147 of the
13 Statutes of 1961 committed on or after September 7, 1955, and
14 prior to September 15, 1961.

15 (e) Any offense involving lewd and lascivious conduct under
16 Section 272 of the Penal Code committed on or after September
17 15, 1961.

18 (f) Any offense involving lewd and lascivious conduct under
19 former Section 702 of the Welfare and Institutions Code repealed
20 by Chapter 1616 of the Statutes of 1961, if that offense was
21 committed prior to September 15, 1961, to the same extent that an
22 offense committed prior to that date was a sex offense for the
23 purposes of this section prior to September 15, 1961.

24 (g) Any offense defined in Section 286 or 288a of the Penal
25 Code prior to the effective date of the amendment of either section
26 enacted at the 1975–76 Regular Session of the Legislature
27 committed prior to the effective date of the amendment.

28 (h) Any attempt to commit any of the ~~above-mentioned~~
29 offenses *specified in this section*.

30 (i) Any offense committed or attempted in any other state
31 which, if committed or attempted in this state, *or against the laws*
32 *of the United States*, would have been punishable as one or more
33 of the ~~above-mentioned~~ offenses *specified in this section*.

34 (j) Any conviction for an offense resulting in the requirement
35 to register as a sex offender pursuant to Section 290 of the Penal
36 Code.

37 (k) Commitment as a mentally disordered sex offender under
38 former Article 1 (commencing with Section 6300) of Chapter 2 of
39 Part 2 of the Welfare and Institutions Code, as repealed by Chapter
40 928 of the Statutes of 1981.



1 SEC. 2. Section 44230 of the Education Code is amended to
2 read:

3 44230. (a) ~~(1) The Commission on Teacher Credentialing~~
4 *commission* shall maintain for public record, and may disclose,
5 only the following information relating to the credentials,
6 certificates, permits, or other documents that it issues: the
7 document number, title, term of validity, subjects, authorizations,
8 effective dates, renewal requirements, and restrictions. The
9 commission may also disclose the last known business address of
10 any applicant or credential holder.

11 *(2) Notwithstanding any other provision of law, except as*
12 *provided for in Section 44248, no information, other than that set*
13 *forth in paragraph (1), may be disclosed by the commission absent*
14 *an order from a court of competent jurisdiction.*

15 (b) In order to expedite the application process for the benefit
16 of applicants for credentials, certificates, permits, or other
17 documents issued by the commission, the commission may
18 receive from, or transmit to, the agency that submitted the
19 application, either electronically or by printed copy, the
20 information set forth in that application. For purposes of this
21 subdivision, “agency” means a school district, county office of
22 education, or institution of higher education having a
23 commission-approved program of professional preparation.

24 SEC. 3. Section 44346.1 of the Education Code is amended
25 to read:

26 44346.1. (a) The commission shall deny any application for
27 the issuance of a credential made by an applicant who has been
28 convicted of a violent or serious felony or a crime set forth in
29 subdivision (a) of Section 44424 or whose employment has been
30 denied or terminated pursuant to Section 44830.1.

31 (b) This section applies to any violent or serious offense which,
32 if committed in this state, would have been punishable as a violent
33 or serious felony.

34 (c) For purposes of this section, a violent felony is any felony
35 listed in subdivision (c) of Section 667.5 of the Penal Code and a
36 serious felony is any felony listed in subdivision (c) of Section
37 1192.7 of the Penal Code.

38 (d) ~~(1) Notwithstanding subdivision (a), a person shall not be~~
39 ~~denied the commission may grant a credential solely on the basis~~
40 ~~that the to an applicant or holder who has been convicted of a~~



1 violent or serious felony if the person *is eligible for, and* has
2 obtained, a certificate of rehabilitation and pardon pursuant to
3 Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part
4 3 of the Penal Code.

5 (2) *Notwithstanding subdivision (a), the commission may grant*
6 *a credential to an applicant who has been convicted of a crime set*
7 *forth in subdivision (a) of Section 44424 if the accusation or*
8 *information against the person has been dismissed and he or she*
9 *has been released from all disabilities and penalties resulting from*
10 *the offense pursuant to Section 1203.4 of the Penal Code.*

11 SEC. 4. Section 44424 of the Education Code is amended to
12 read:

13 ~~44424. (a) Upon the conviction of the holder of any~~
14 ~~credential issued by the State Board of Education or the~~
15 ~~Commission on Teacher Credentialing of a~~ *The commission shall*
16 *immediately revoke the credential of a person upon the person's*
17 *final conviction of any of the following offenses:*

18 (1) A violation, or attempted violation, of a violent or serious
19 felony as described in Section 44346.1, ~~or any.~~

20 (2) Any one or more of Penal Code Sections 187 to 191,
21 inclusive, 192 insofar as this section relates to voluntary
22 manslaughter, 193, 194 to 217.1, inclusive, 220, 222, 244, 245,
23 261 to 267, inclusive, 273a, 273ab, 273d, 273f, 273g, 278, 285 to
24 288a, inclusive, 424, and 425, ~~484 to 488, inclusive, insofar.~~

25 (3) *Sections 484 to 487, inclusive, and Section 666 of the Penal*
26 *Code, as these sections relate to felony convictions,.*

27 (4) *Sections 503 and 504, or of any of the Penal Code.*

28 (5) Any offense involving lewd and lascivious conduct under
29 Section 272 of the Penal Code, ~~or any.~~

30 (6) Any offense committed or attempted in any other state or
31 against the laws of the United States which, if committed or
32 attempted in this state, would have been punished as one or more
33 of the offenses specified in this section, ~~becoming final, the~~
34 ~~commission shall forthwith revoke the credential.~~

35 (b) Upon a plea of nolo contendere as a misdemeanor to one or
36 more of the crimes set forth in subdivision (a), all credentials held
37 by the respondent shall be suspended until a final disposition
38 regarding those credentials is made by the commission. Any action
39 that the commission is permitted to take following a conviction
40 may be taken after the time for appeal has elapsed, or the judgment



1 of conviction has been affirmed on appeal, or when an order
2 granting probation is made suspending the imposition of sentence
3 and the time for appeal has elapsed or the judgment of conviction
4 has been affirmed on appeal, irrespective of a subsequent order
5 under the provisions of Section 1203.4 of the Penal Code.

6 (c) The commission shall revoke a credential issued to a person
7 whose employment has been denied or terminated pursuant to
8 Section 44830.1.

9 (d) Notwithstanding subdivision (a), ~~a credential shall not be~~
10 ~~revoked solely on the basis that the applicant or the commission is~~
11 *not required to revoke the credential of a holder who has been*
12 *convicted of a violent or serious felony if the person has obtained*
13 *a certificate of rehabilitation and pardon pursuant to Chapter 3.5*
14 *(commencing with Section 4852.01) of Title 6 of Part 3 of the*
15 *Penal Code.*

16 (e) *Notwithstanding subdivision (a), the commission is not*
17 *required to revoke the credential of a holder who has been*
18 *convicted of a crime set forth in paragraphs (2) to (5), inclusive,*
19 *of subdivision (a) or who has been convicted of a crime set forth*
20 *in paragraph (6) of subdivision (a), unless the crime is analogous*
21 *to a violation, or attempted violation, of a violent or serious felony*
22 *as described in Section 44346.1, if the accusation or information*
23 *against the holder has been dismissed and he or she has been*
24 *released from all disabilities and penalties resulting from the*
25 *offense pursuant to Section 1203.4 of the Penal Code.*

