

August 14, 2015

To the Honorable Members of  
The Illinois House of Representatives  
99th General Assembly:

Today I return House Bill 494 with specific recommendations for change.

Current law permanently bars a person who has been convicted of a Class X felony, sex offense, or drug offense from holding an educator license. This bill would permit a person who has been convicted of a drug offense to obtain an educator license beginning seven years after the person has completed his or her criminal sentence for the offense, subject to other licensing requirements.

I thank the sponsors for undertaking the difficult task of balancing important, competing public interests. Although we must establish high standards for educators to protect our children, we should not permanently preclude persons convicted of relatively minor, non-violent offenses from gainful employment after enough time has passed following the successful completion of the criminal sentence.

I am returning House Bill 494 to correct and clarify the legislation. I thank the sponsors and other supporters of this bill for working with the State Board of Education and my administration to prepare and review these changes.

First, the bill adds a new subsection (a-5) to Section 21B-80 of the School Code to provide that a drug offense conviction is an “automatic bar” only until seven years following the end of the criminal sentence, as opposed to permanently. While I support that change for the reasons explained above, the new subsection does not specify *how* that automatic bar would be given effect. I recommend that the change be incorporated into existing subsections (b) and (c), which would make clear that it is the duty of the State Superintendent of Education to give effect to the license suspension.

Second, the bill adds two unnecessary references in Section 21B-80 of the School Code to “employment” that could confuse the distinction between licensure and employment. Section 21B-80 directs the State Superintendent of Education to suspend or revoke the educator license of a person convicted of a Class X felony, sex offense, or drug offense. Employment, by contrast, is undertaken by school districts, not the State Board of Education or the State Superintendent. I recommend that references in Section 21B-80 to “employment” be removed to avoid implying otherwise.

Third, the changes to Section 21B-80 are in conflict with the provisions of Section 21B-15 of the School Code. That section provides that “no one may be licensed to teach or supervise in the public schools of this State who has been convicted of an offense set forth in Section 21B-80 of this Code.” The changes made in Section 21B-80 with respect to drug offenses must be reflected in Section 21B-15.

Finally, the bill makes unclear statements in Sections 2-3.25o, 10-21.9, and 34-18.5 of the School Code that are unnecessary and potentially confusing. Those sections require criminal background checks for school employees. The proposed changes would provide that a conviction of a felony *other than* a Class X felony, sex offense, or drug offense may not be an automatic bar to employment after seven years, and that a conviction for such a felony may be reviewable within the first seven years. Current law, however, does not impose an automatic bar to employment of persons convicted of such non-enumerated felonies. Additional clarity would be needed to properly guide school districts on the relevance of criminal offenses to employment decisions outside of Section 21B-80. The proposed provisions are too unclear to be workable and fall outside of the primary purpose of this bill: to reduce the permanent bar on licensing persons convicted of a drug offense.

Therefore, pursuant to Section 9(e) of Article IV of the Illinois Constitution of 1970, I hereby return House Bill 494 entitled “AN ACT concerning education”, with the following specific recommendations for change:

On page 1, by replacing line 5 with “2-3.25o, 10-21.9, 21B-15, 21B-80, and 34-18.5 as follows:”; and

On page 3, by deleting lines 8-14; and

On page 7, by replacing lines 19 through 25 with “punishable as a felony under the laws of this State.”; and

On page 8, by replacing line 1 with “Authorization”; and

On page 15, immediately after line 17, by inserting the following:

“(105 ILCS 5/21B-15)  
Sec. 21B-15. Qualifications of educators.

(a) No one may be licensed to teach or supervise or be otherwise employed in the public schools of this State who is not of good character and at least 20 years of age.

In determining good character under this Section, the State Superintendent of Education shall take into consideration the disciplinary actions of other states or national entities against certificates or licenses issued by those states and held by individuals from those states. In addition, any felony conviction of the applicant may be taken into consideration; however, no one may be licensed to teach or supervise in the public schools of this State who has been convicted of (i) an offense set forth in subsection (b) of Section 21B-80 of this Code until 7 years following the end of the sentence for the criminal offense or (ii) an offense set forth in subsection (c) of Section 21B-80. Unless the conviction is for an offense set forth in Section 21B-80 of this Code, an applicant must be permitted to submit character references or other written material before such a conviction or other information regarding the applicant's character may be used by the State Superintendent of Education as a basis for denying the application.

(b) No person otherwise qualified shall be denied the right to be licensed or to receive training for the purpose of becoming an educator because of a physical disability, including, but not limited to, visual and hearing disabilities; nor shall any school district refuse to employ a teacher on such grounds, provided that the person is able to carry out the duties of the position for which he or she applies.

(c) No person may be granted or continue to hold an educator license who has knowingly altered or misrepresented his or her qualifications, in this State or any other state, in order to acquire or renew the license. Any other license issued under this Article held by the person may be suspended or revoked by the State Educator Preparation and Licensure Board, depending upon the severity of the alteration or misrepresentation.

(d) No one may teach or supervise in the public schools nor receive for teaching or supervising any part of any public school fund who does not hold an educator license granted by the State Superintendent of Education as provided in this Article. However, the provisions of this Article do not apply to a member of the armed forces who is employed as a teacher of subjects in the Reserve Officers' Training Corps of any school, nor to an individual teaching a dual credit course as provided for in the Dual Credit Quality Act.

(e) Notwithstanding any other provision of this Code, the school board of a school district may grant to a teacher of the district a leave of absence with full pay for a period of not more than one year to permit the teacher to teach in a foreign state under the provisions of the Exchange Teacher Program established under Public Law 584, 79th Congress, and Public Law 402, 80th Congress, as amended. The school board granting the leave of absence may employ, with or without pay, a national of the foreign state wherein the teacher on the leave of absence is to teach if the national is qualified to teach in that foreign state and if that national is to teach in a grade level similar to the one that was taught in the foreign state. The State Board of Education, in consultation with the State Educator Preparation and

Licensure Board, may adopt rules as may be necessary to implement this subsection (e).

(Source: P.A. 97-607, eff. 8-26-11.)"; and

On page 15, by replacing line 20 with "disqualification for licensure or revocation of a"; and

On page 17, by replacing lines 25 through 26 on page 17 with "“Sentence” includes any period of supervision or probation that was imposed either alone or in combination with a period of incarceration."; and

On page 18, by deleting lines 1-6; and

On page 18, by replacing lines 7-18 with the following:

“(b) Whenever the holder of any license issued pursuant to this Article or applicant for a license to be issued pursuant to this Article has been convicted of any sex offense or drug narcotics offense, other than an offense enumerated in subsection (c) of this Section, the State Superintendent of Education shall forthwith suspend the license or deny the application, whichever is applicable, until 7 years following the end of the sentence for the criminal offense. If the conviction is reversed and the holder is acquitted of the offense in a new trial or the charges against him or her are dismissed, the State Superintendent of Education shall forthwith terminate the suspension of the license. ~~When the conviction becomes final, the State Superintendent of Education shall forthwith revoke the license.~~”; and

On page 18, by replacing line 22 with the following, “conspiring to commit, soliciting, or committing any sex offense, first degree”; and

On page 20, by replacing lines 2 through 8 with the following: “under the laws of this State.”; and

On page 20, by replacing line 9 with the following, “Authorization for the check”.

With these changes, House Bill 494 will have my approval. I respectfully request your concurrence.

Sincerely,

Bruce Rauner  
GOVERNOR