

Date of Hearing: March 22, 2017

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 872 (Chau) – As Introduced February 16, 2017

**SUBJECT:** School employees: employment: sex offenses

**SUMMARY:** Changes the list of sex offenses that require mandatory suspension of a teaching credential by the Commission on Teacher Credentialing (CTC). Specifically, **this bill** adds reference to Penal Code Section 290(c) and 288.2 to the definition of sex offense in the Education Code and deletes the duplicative code references.

**EXISTING LAW:**

- 1) Defines which “sex offenses” require immediate suspension and revocation of a teaching credential or denial of a credential application by the CTC. (Education Code Section 44010)
- 2) Requires the CTC to immediately suspend a credential when the holder has been charged with certain sex or controlled substance offenses and to revoke the credential upon conviction. (Education Code Section 44425)
- 3) Requires the CTC to revoke a credential when the holder has been convicted of certain sex offenses or controlled substance offenses and prohibits reinstatement of the credential for certain felony offenses. (Education Code Section 44424)
- 4) Establishes the Committee of Credentials for the purpose of reviewing allegations that may be grounds for the denial, suspension, revocation of a teaching or services credential issued by the CTC. (Education Code Section 44240)

**FISCAL EFFECT:** Unknown

**COMMENTS:** This bill updates the list of sex offenses that require a mandatory suspension of a teaching credential by adding the list of all sex offenses that require a person to register as a sex offender. The bill also adds to this list a new penal code section that didn't exist previously - sending sexual text message to minors (known as sexting).

According to the CTC, under current law, not all sex offenses result in an automatic suspension of credentials by the Commission. This may lead to situations in which a person charged with a sexual offense can remain in the classroom until the disposition of his or her case. Even if an employer takes action to suspend the employee, without action to suspend his or her credential, the credential holder may be able to move to another employer and re-enter an educational setting. This bill adds penal code sections to the education code so they can be added to the existing list of offenses that require a mandatory suspension by the CTC.

***Mandatory Offenses and Discretionary Review.*** Several sections of the Education code currently deal with criminal offenses requiring revocation of teaching credentials. Section 44424 of the Education code lists specific felonies and misdemeanors and violent/serious felonies. Section 44010 of the Education code lists specified sex offenses and Section 44011 lists controlled substance offenses. Under current law a conviction of any of the felonies listed in

Section 44424 results in a mandatory revocation. In some cases such as theft crimes, the Legislature has specifically limited the revocation to felony thefts. In others, such as child endangerment, the Legislature has included both misdemeanors and felonies.

Offenses that do *not* require mandatory revocation of teaching credentials receive a discretionary review by the Commission on Teacher Credentialing and action is taken by the Committee of Credentials (COC) based on the facts and circumstances of the case. After the first review by the COC, the committee may decide to end the review process or move the case forward for a formal review by the committee. At the formal review by the committee, the credential holder may appear and present their case. After the formal review, the committee may issue a decision for disciplinary action for the credential holder and the person has 30 days to accept the discipline or request an Administrative hearing by an independent Administrative Law Judge. After the Judge makes a decision, the Committee of Credentials can either accept that decision or reject the decision and impose the committee's disciplinary action.

***Addition of Penal Code Sections.*** This bill adds the following Penal Code Sections to the Education Code as offenses which require mandatory suspension (and eventual revocation) of a teaching credential:

- 1) Penal Code Section 290(c) – Offenses which require the offender to register under the Sex Offender Registration Act. By adding Penal Code Section 290(c) to the education code, the following sex offenses will be added:
  - Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 288, 288a, or 289: Murder with intent to commit rape or other sexual acts
  - Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289: Kidnapping with intent to commit rape or other sexual acts
  - Section 236.1(b) and (c): Human trafficking for purposes of prostitution or creating child pornography
  - Section 266c: Unlawful sexual contact with consent procured via false or fraudulent representation intended to create fear
  - Section 266h(b): Pimping
  - Section 269: Aggravated sexual assault of a child
  - 288.3: Contacts minor with the intent to commit specified offenses
  - 288.4: Arrangement of meeting with minor for lewd/lascivious behavior
  - 288.7: Sexual acts with child 10 years or younger
  - Section 653f(c): Solicitation of another to commit forcible rape, sodomy, or oral copulation
- 2) Penal Code Section 288.2 – Harmful matter sent with intent to seduce a minor. This is a relatively new penal code section related to sending sexual messages via text.

Although the above-listed offenses, except Penal Code section 269, constitute mandatory denial or revocation offenses (mandatories) pursuant to Education Code sections 44346.1 and 44424, those who have been charged with these offenses cannot be automatically suspended because these charges are not included in Education Code section 44010.

***Committee Amendment:*** Inconsistencies have been found among the list of sex, drug and violent crime offenses that require a mandatory suspension and revocation of a teaching credential. In

order to remedy these inconsistencies, the committee should consider amending the bill to require the Legislature to convene a working group to discuss the penal code sections included on the list of offenses that require mandatory suspension and revocation of a teaching credential.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California State Sheriff's Association

**Opposition**

None on file

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