

ACT 312

S.B. NO. 1212

A Bill for an Act Relating To Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The National Commission on Teaching and America's Future, a national organization with nineteen partner states, including Hawaii, is focused on improving student learning by ensuring that there is a caring, competent, and qualified teacher in every classroom.

Over the past year, with the lieutenant governor as its chairperson, the Hawaii Policy Group of the National Commission on Teaching and America's Future, composed of a representative group of educational stakeholders, has collaborated on research based recommendations to improve teaching in Hawaii. The recommendations encompass five key areas:

- (1) Establishing and implementing standards for students and teachers;
- (2) Teacher preparation and professional development;
- (3) Teacher recruitment and placing qualified teachers in all classrooms;
- (4) Encouraging and rewarding teaching knowledge and skill; and
- (5) Creating schools that are organized for student and teacher success.

One thing was clear: aside from home and societal factors, teacher quality is, without question, the most influential factor in student achievement. Standards-based reform has a greater chance of success when teacher quality is addressed and given our highest priority. We must equip our teachers with the resources and skills necessary to ensure that all students attain their full potential.

This Act arose out of the work of the Hawaii Policy Group of the National Commission on Teaching and America's Future.

The purpose of this Act is to strengthen the teaching profession by making it self-governing and accountable for who becomes and remains licensed to teach in Hawaii. Like its professional counterparts, the board of medical examiners for doctors and the Hawaii State Bar Association for lawyers, the Hawaii teacher standards board will be authorized to issue, renew, revoke, suspend, and reinstate licenses for individuals desiring to teach in our State. Transferring these duties from the department of education to the Hawaii teacher standards board will remove the inherent conflict of interest faced by the department in its current role as employer, as well as licensing agent.

This Act also allows the department of education to offer teaching contracts in a more timely fashion while also requiring the department to publicly report the instances in which it has hired an unlicensed individual to teach. Under this Act, the Hawaii teacher standards board will also be authorized to conduct state approval of teacher education, as well as to engage in other teacher quality-related matters.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

**“§302A- Approval of teacher education programs; professional development of teachers.** The board shall be responsible for approving teacher education programs that meet the standards established by the board. The board may engage in efforts relating to the improvement of instruction through teacher education and professional development, and to attract qualified candidates for teacher training from among the high school graduates of the State.

**§302A- Efforts related to teacher quality.** (a) The board may participate in efforts relating to issues affecting teacher quality. The board may conduct professional development activities related to its standards, and shall promote and support high teacher standards and accomplished teaching through means deemed appropriate by the board.

(b) To remain current with trends and issues in teacher licensure systems, beginning teacher programs, the assessment of teaching skills, teacher development, and other related topics, the board shall participate in programs and attend conferences and training that address these topics. The board may conduct research and development activities for the purpose of staying abreast of or better understanding these trends and issues.”

SECTION 3. Section 302A-501, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For the purposes of [~~sections 302A-801 to 302A-808:~~] subpart D:

“Board” means the Hawaii teacher standards board.

[~~“Credential” means an emergency or temporary license issued under this chapter based on standards and guidelines set by the board.~~]

“Emergency hire” means an unlicensed employee of the department paid under the salary schedule contained in the unit 5 collective bargaining agreement.

“License” means the document signifying the board’s grant of permission to practice the profession of teaching.

“Teacher” means [~~an~~] a licensed employee of the department paid under the salary schedule contained in the unit 5 collective bargaining agreement.

[~~This subsection is repealed on June 30, 2010.~~]”

SECTION 4. Section 302A-602, Hawaii Revised Statutes, is amended to read as follows:

**“[~~§302A-602~~] Teachers; certificates, licenses, and credentials.** (a) No person shall serve as a teacher in the department without first having obtained a [~~certificate,~~] license[~~, or credential~~] from the [~~department~~] board in such form as the [~~department~~] board determines. The department shall establish types of certificates in the educational field and the requirements to qualify for those certificates issued to [~~teachers~~] individuals who are not required to obtain a license [~~or credential~~] pursuant to [~~sections 302A-801 to 302A-809~~].

(b) Beginning with the [~~1997-1998~~] 2002-2003 school year, no person paid under the salary schedule contained in the unit 5 collective bargaining agreement shall serve as a teacher in the department without first having obtained a license [~~or credential~~] pursuant to [~~sections 302A-801 to 302A-809~~] from the [~~department~~] board in such form as the [~~department~~] board determines.

(c) Beginning with the 2002-2003 school year, the department may employ unlicensed individuals as emergency hires pursuant to sections 302A-801 to 302A-808.”

SECTION 5. Section 302A-602.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[§302A-602.5]~~ **[Certificates] Licenses; revocation.** (a) The ~~[department]~~ board may revoke any ~~[certificate]~~ license after its issuance if the ~~[certificate]~~ license holder does not possess the requisite qualifications. The ~~[department]~~ board shall provide the ~~[certificate]~~ license holder an opportunity to justify retaining the ~~[certificate]~~ license before its revocation.

(b) Upon revocation of the ~~[certificate]~~ license, the ~~[department]~~ board may disclose the name, birthdate, social security number, and any other pertinent information about the former holder of the ~~[certificate]~~ license related to the revocation for the purpose of exchanging information under chapter 315 with other national or state teacher certification agencies about school personnel who have had ~~[certificates]~~ licenses revoked.”

SECTION 6. Section 302A-603, Hawaii Revised Statutes, is amended to read as follows:

“~~[§302A-603]~~ **Teaching without certificates[, or licenses[, or credentials]; penalty.** (a) Except as otherwise provided, before the 1997-1998 school year, whoever serves in the department as a teacher without holding an unrevoked certificate issued under ~~[§]sections 302A-602 to 302A-640, and 302A-701[§]~~, shall be fined not more than \$25.

(b) Beginning with the ~~[1997-1998]~~ 2002-2003 school year, whoever serves in the department as a teacher, paid under the salary schedule contained in the unit 5 collective bargaining agreement, without holding an unrevoked or unsuspended license or credential issued under ~~[§]sections 302A-801 to 302A-809[§]~~, shall be fined not more than \$500.

(c) Beginning with the ~~[1997-1998]~~ 2002-2003 school year, ~~[whoever serves in the department as a teacher,]~~ an individual not paid under the salary schedule contained in the unit 5 collective bargaining agreement, without holding an unrevoked certificate issued under ~~[§]sections 302A-602 to 302A-640, and 302A-701[§]~~, shall be fined not more than \$500.

(d) Beginning with the 2002-2003 school year, emergency hires shall not be subject to this penalty.”

SECTION 7. Section 302A-610, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

“(h) Beginning with the ~~[1997-1998]~~ 2002-2003 school year, this section shall be interpreted as though the term “certificated” read “licensed” ~~[or “credentialed”]~~, as the latter ~~[terms are]~~ term is used in subpart D, and as circumstances require.”

SECTION 8. Section 302A-616, Hawaii Revised Statutes, is amended to read as follows:

“~~[§302A-616]~~ **Conditions of sabbatical leave of absence.** (a) A teacher or educational officer on sabbatical leave shall devote one-half of the teacher’s or educational officer’s total leave to professional educational course work, research, or other professional activity approved by the department. The department shall establish guidelines and criteria of professional educational course work, research, or other professional activity. Before granting a sabbatical leave to a teacher or educational officer, the department and the teacher or educational officer shall enter into a contract, which shall provide for the following:

- (1) That the teacher or educational officer agrees to return to serve in the department, the University of Hawaii, or any community college for a

- period of not less than two years within one year after termination of the teacher's or educational officer's sabbatical leave;
- (2) That upon failure of the teacher or educational officer to comply with paragraph (1), the teacher or educational officer agrees to refund to the department all moneys received while on sabbatical leave;
  - (3) That upon failure of the teacher or educational officer to comply with paragraph (2), the teacher or educational officer agrees to pay for all costs incurred by the department in enforcing paragraph (2);
  - (4) That upon failure to comply with paragraph (1), the teacher's or educational officer's Hawaii teaching certificate shall be canceled by the department; and
  - (5) Any other provisions deemed necessary by the department to be included in the contract.

(b) Beginning with the [1997-1998] 2002-2003 school year, this section shall be interpreted as though the term "certificate" read "license" [or "credential?"], as the latter terms are used in subpart D, and as circumstances require."

SECTION 9. Section 302A-618, Hawaii Revised Statutes, is amended to read as follows:

~~“[§302A-618] Classification, teachers.~~ (a) The designation of any teacher to any given class shall be determined by the department in accordance with ~~[its certification] licensing~~ requirements.

~~[(b) Teachers shall be classified as follows:~~

- ~~(1) A Class I teacher is any teacher who holds a certificate issued by the department and who does not qualify as a Class II, III, IV, V, VI, or VII teacher as described below;~~
- ~~(2) A Class II teacher is any teacher who holds a certificate issued by the department based upon four acceptable years of college education and other requirements as may be established by the department;~~
- ~~(3) A Class III teacher is any teacher who holds a certificate issued by the department based upon five acceptable years of college education and other requirements as may be established by the department;~~
- ~~(4) A Class IV teacher is any teacher who holds a certificate issued by the department based upon five acceptable years of college education and fifteen additional credits approved by the department and other requirements as may be established by the department;~~
- ~~(5) A Class V teacher is any teacher who holds a certificate issued by the department based upon five acceptable years of college education and thirty additional credits approved by the department and other requirements as may be established by the department;~~
- ~~(6) A Class VI teacher is any teacher who holds a certificate issued by the department based upon five acceptable years of college education and forty five additional credits approved by the department and other requirements as may be established by the department; and~~
- ~~(7) A Class VII teacher is any teacher who holds a certificate issued by the department based upon five acceptable years of college education and sixty six additional credits approved by the department and other requirements as may be established by the department, or any teacher who holds a certificate issued by the department based upon a doctorate and who teaches subjects in or related to the teacher's major.]~~

~~[(e)]~~ (b) Any teacher teaching technical school courses who is transferred to a community college under the jurisdiction of the board of regents of the University

of Hawaii shall not suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege.

[(d)] (c) Beginning with the [1997-1998] 2002-2003 school year, this section shall be interpreted as though the terms “certification” and “certificate” read “licensing” [or “credentiaing”], and “license” [or “credential”], as the latter terms are used in subpart D, and as circumstances require.”

SECTION 10. Chapter 302A, Hawaii Revised Statutes, is amended by amending part III, subpart D, to read as follows:

**“D. Hawaii Teacher Standards Board**

**§302A-801 Hawaii teacher standards board established.** (a) There is established the Hawaii teacher standards board, which shall be placed within the department for administrative purposes only. The board shall consist of ~~nine~~ thirteen members, including ~~four certified~~ not less than six licensed teachers~~[-]~~ regularly engaged in teaching, three educational officers, the chairperson of the board of education or the chairperson’s designee, the superintendent or the superintendent’s designee, a representative of independent schools, and the dean of the University of Hawaii college of education or the dean’s designee~~[-]~~; provided that the dean’s designee shall be chosen from the member institutions of the teacher education coordinating committee established under section 304-20.

(b) Except for the chairperson of the board of education, ~~the superintendent~~, and the dean of the college of education, the governor shall appoint the members of the board pursuant to section 26-34, from a list of qualified nominees submitted to the governor by the departments, agencies, and organizations representative of the constituencies of the board. To the extent possible, the board membership shall reflect representation of elementary and secondary school personnel ~~[and the neighbor-~~ hood] from all islands.

(c) Appointed board members shall serve not more than three consecutive three-year terms; provided that the initial terms of the appointed members that commence after June 30, 2000, shall be staggered, as follows:

- (1) Three members to serve three-year terms;
- (2) Three members to serve two-year terms; and
- (3) One member to serve a one-year term.

(d) Board members shall receive no compensation. When board duties require that a board member take leave of the board member’s duties as a state employee, the appropriate state department shall allow the board member to be placed on administrative leave with pay and shall provide substitutes, when necessary, to perform that board member’s duties. Board members shall be reimbursed for necessary travel expenses incurred in the conduct of official board business.

(e) The chairperson of the board shall be designated by the members of the board.

~~[[§302A-802]]~~ **Licensing and credentialing standards.** (a) The board shall establish licensing and credentialing standards that govern teacher licensing and credentialing ~~[within the department-]~~ in Hawaii. Licensing and credentialing standards established by the board shall be adopted as rules under chapter 91~~[-]~~ unless otherwise specified in this subpart.

(b) In the development of its standards, the board shall consider the existing teacher applicant pool that is available in the State and the level of the qualification of these applicants, as well as the nature and availability of existing ~~[pre-service]~~ preservice higher education teacher training programs. The board shall also consider alternative ~~[certification-]~~ routes to licensing, such as national teacher examinations,

and credentials that certify competency in subject areas or programs taught in the public schools.

**§302A-803 Powers and duties of the board.** In addition to establishing standards for the issuance and renewal of licenses and credentials, the board's powers shall also include:

- (1) Setting and administering its own budget;
- (2) Adopting, amending, repealing, or suspending the policies, standards, or rules of the board in accordance with chapter 91;
- (3) Receiving grants or donations from private foundations[;], and state and federal funds;
- (4) Submitting an annual report to the governor and the legislature on the board's operations[;] and from the 2007-2008 school year, submitting a summary report every five years of the board's accomplishment of objectives, efforts to improve or maintain teacher quality, and efforts to keep its operations responsive and efficient;
- (5) Conducting a cyclical review of standards and suggesting revisions for their improvement;
- (6) Establishing licensing and credentialing fees in accordance with chapter 91, including the collection of fees by means of mandatory payroll deductions, which shall subsequently be deposited into the state treasury and credited to the Hawaii teacher standards board revolving fund;
- (7) Establishing penalties in accordance with chapter 91; ~~[and]~~
- (8) Granting extensions of credentials on a case-by-case basis pursuant to section 302A-805[-]; provided that this paragraph shall be repealed on June 30, 2002;
- (9) Issuing, renewing, revoking, suspending, and reinstating licenses and credentials;
- (10) Reviewing reports from the department concerning the number of individuals hired on an emergency basis;
- (11) Applying licensing and credentialing standards on a case-by-case basis and conducting licensing and credentialing evaluations;
- (12) Preparing and disseminating teacher licensing information to schools and operational personnel;
- (13) Approving teacher preparation programs;
- (14) Administering reciprocity agreements with other states relative to licensing;
- (15) Conducting research and development on teacher licensure systems, beginning teacher programs, the assessment of teaching skills, and other related topics;
- (16) Participating in efforts relating to teacher quality issues, conducting professional development related to the board's standards, and promotion of high teacher standards and accomplished teaching; and
- (17) Adopting applicable rules and procedures.

~~[§302A-804] Powers and duties of the department.~~ The department shall retain all of its rights and powers except for the authority provided to the board under this subpart. The department's powers and duties under this subpart shall be limited to ~~[administering the teacher licensing and credentialing process, including:~~

- (1) ~~Issuing, renewing, revoking, suspending, and reinstating licenses and credentials;~~
- (2) ~~Issuing credentials, not to exceed one year at a time, pending the submittal of transcripts and other documentation;~~

- ~~(3) Issuing credentials, not to exceed one year at a time, to fill vacancies only after exhausting all reasonable recruitment means to find qualified, interested, and acceptable candidates;~~
- ~~(4) Applying licensing and credentialing standards on a case-by-case basis and conducting licensing and credentialing evaluations;~~
- ~~(5) Preparing and disseminating teacher licensing and credentialing information to schools and operational personnel;~~
- ~~(6) Developing applicable rules and procedures;~~
- ~~(7) Administering reciprocity agreements with other states; and~~
- ~~(8) Implementing changes made by the board to licensing and credentialing standards.];~~
- (1) Hiring, except in emergency situations as described in this chapter, licensed teachers to teach in their fields of licensing;
- (2) Reporting data annually to the board about the supply of, and demand for, teachers, including the identification of shortage areas, out-of-field teaching assignments, numbers of teachers teaching out-of-field, numbers and types of courses and classes taught by out-of-field teachers, and numbers and types of students taught by out-of-field teachers;
- (3) On an emergency and case-by-case basis, hiring unlicensed individuals; provided that:
  - (A) A list of the names, work sites, teaching assignments, and progress toward licensing of these individuals shall be reported to the board and any changes shall be updated on a monthly basis by the department;
  - (B) There are no properly licensed teachers for the specific assignments for which the individual are being hired; and
  - (C) No individual may be employed by the department on an emergency basis for more than four years. During this time the individual must demonstrate active pursuit of licensing in each year of employment;
- (4) Submitting an annual report to the board documenting:
  - (A) The number of emergency hires by subject matter areas and by schools;
  - (B) The reasons and duration of employment for the emergency hiring enumerated in subparagraph (A);
  - (C) Individual progress toward licensing; and
  - (D) The department's efforts to address the shortages described in subparagraph (A); and
- (5) Providing any other information requested by the board that is pertinent to its powers and duties.

**§302A-805 Teachers; license or credential required; renewals.** (a) Beginning with the 1997-1998 school year, no person shall serve as a teacher in a public school without first having obtained a license or credential from the department under this subpart. All licenses issued by the department shall be renewable every five years, if the licensee continues to satisfy the board's licensing standards. All credentials issued by the department shall be renewable every year, up to a maximum of three years, if the credential holder continues to satisfy the board's credentialing standards and actively pursues appropriate licensing. For the 2000-2001 and 2001-2002 school years only, the board may, on a case-by-case basis, extend a credential for one year, but no more than twice for any credential holder; provided that the individual seeking an extension meets the following requirements and submits a written request to the board consisting of:

- (1) Copies of the department's form C with supporting documents that demonstrate active pursuit of and satisfactory progression in license requirements;
- (2) Documentation of extenuating circumstances that explain the need for an extension or lack of availability of programs and courses required for licensing;
- (3) Narrative evaluation from current and past school principals documenting teaching performance according to the board's performance standards;
- (4) Submittal of the credential holder's proposed action plan to meet all licensing standards;
- (5) Documentation of passing scores for basic skills tests or documented evidence, which the individual maintains, of concerted effort to pass the basic skills test, beyond mere retaking of the test; and
- (6) Documentation of passing scores for applicable subject matter content tests unless the subject matter is integrated into the teacher preparation program.

This subsection shall be repealed on June 30, 2002.

(b) The board shall consider the following in granting any extension:

- (1) The diligence with which the credential holder has pursued licensing;
- (2) The extenuating circumstances and the extent to which the individual has been subjected to constraints beyond the individual's control to the timely completion of all licensing requirements;
- (3) Evidence of strong teaching performance according to the board's performance standards; and
- (4) Likelihood of successful implementation of the credential holder's proposed action plan.

This subsection shall be repealed on June 30, 2002.

(c) Beginning July 1, 2002, all new licenses shall be issued by the board. No person shall serve as a half-time or full-time teacher in a public school without first having obtained a license from the board under this subpart. All licenses issued by the board shall be valid only for the fields specified on the licenses and shall be renewable every five years if the individual continues to:

- (1) Satisfy the board's licensing standards;
- (2) Show evidence of successful teaching in the previous five years; and
- (3) Satisfy the board's requirements for renewal of licenses.

Teachers whose licenses expire on June 30, 2002, or June 30, 2003, shall be granted an automatic extension of two years. No person shall be issued a license or teach on an emergency basis in the public schools without having first paid the fees established by the board in accordance with chapter 91.

**[§302A-806]** **Hawaii teacher standards board revolving fund.** There is established within the state treasury a revolving fund to be known as the Hawaii teacher standards board revolving fund, into which shall be deposited all [fees collected pursuant to section 302A-803, and all other] moneys received by the board in the form of appropriations, fees, fines, grants, [or] donations[-], or revenues regardless of their source. The revolving fund shall be administered by the department and used to pay the expenses of the board, including but not limited to the payment of all operational and personnel costs, and reimbursements to board members for travel expenses incurred.

**[§302A-807]** **Refusal, suspension, revocation, and reinstatement of licenses and credentials.** (a) The [~~superintendent~~] board shall serve as the final adjudicator for appeals relating to licensing and credentialing, including [~~but not~~



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~~limited to~~ the issuance or nonissuance of licenses and credentials, and the suspension, nonrenewal, and revocation of licenses and credentials.

(b) The ~~[superintendent]~~ board shall establish procedures for the conduct of proceedings for the consideration of requests filed with the ~~[department.]~~ board. In every case to revoke or suspend a license or credential, the ~~[superintendent]~~ board shall give the person concerned written notice ~~[and] that a request has been filed with the board.~~ The board shall conduct a hearing in conformity with chapter 91, and ~~[the superintendent]~~ shall provide for confidentiality of the proceedings to protect the parties. In all proceedings before it, the ~~[superintendent]~~ board may administer oaths, compel the attendance of witnesses and production of documentary evidence, and examine witnesses. In case of disobedience by any person to any order of the ~~[superintendent]~~ board or to any subpoena issued by the ~~[superintendent,]~~ board, or the refusal of any witness to testify to any matter that the person may be questioned lawfully, any circuit judge, on application of the board or a member thereof, shall compel obedience in the case of disobedience of the requirements of a subpoena issued by a circuit court or a refusal to testify.

(c) Any applicant who has been refused a license or credential, or any licensee or credential holder whose license or credential has been suspended or revoked, shall have the right to appeal the ~~[superintendent's]~~ board's decision to the circuit court of the circuit in which the applicant, licensee, or credential holder resides in the manner provided in chapter 91~~[-]; provided that out-of-state resident applicants shall file their appeals in the first circuit court.~~

(d) Upon revocation of a license or credential, the ~~[department]~~ board may disclose the name, birthdate, social security number, and any other pertinent information about the former holder of the license or credential ~~[for]:~~

(1) To the department; and

(2) For the purpose of exchanging information under chapter 315 with other national or state teacher certification agencies about school personnel who have had licenses[,] or credentials[, or other certificates] revoked.

~~[[§302A-808]]~~ **Penalty.** Any person who engages in the profession of teaching in a public school without first being issued a license or ~~[credential]~~ hired on an emergency basis as defined in this chapter shall be fined not more than \$500. Any person who knowingly or intentionally violates this subpart by employing an individual as a public school teacher who does not possess a valid license or ~~[credential]~~ is not a department of education emergency hire as defined in this chapter may be fined not more than \$500. All fines shall be deposited into the Hawaii teacher standards board revolving fund.

~~[[§302A-809 Repeal. This subpart D, sections 302A-801 to 302A-809, is repealed on June 30, 2010.]]'~~

SECTION 11. Act 122, Session Laws of Hawaii 1996, as amended by Act 218, Session Laws of Hawaii 1999, is amended by amending section 7 to read as follows:

~~"SECTION 7. This Act shall take effect upon its approval, except that section 2 shall take effect retroactive to July 1, 1995[-, and shall be repealed on June 30, 2010]."~~

SECTION 12. Act 106, Session Laws of Hawaii 2000, is amended by amending section 4 to read as follows:

~~"SECTION 4. This Act shall take effect upon its approval [-, provided that on June 30, 2002, this Act shall be repealed and sections 302A-803 and 302A-805,~~

~~Hawaii Revised Statutes, are reenacted in the form in which they read on the day before the approval of this Act].”~~

SECTION 13. Effective July 1, 2002, all references to “credential” or “credentialing” in sections 302A-410, 302A-610, 302A-802, 302A-803, and 302A-807, and the phrase “teacher’s or” in section 302A-616(a)(4) shall be deleted.

SECTION 14. There is appropriated out of the general revenues of the State of Hawaii the sum of \$86,807, or so much thereof as may be necessary for fiscal year 2001-2002 to establish the technological and personnel infrastructure necessary to conduct the licensing and renewal function of the Hawaii teacher standards board including the hiring of staff and the sum of \$347,228, or so much thereof as may be necessary for fiscal year 2002-2003 to conduct the new functions of, including the hiring of staff for, the Hawaii teacher standards board. The department of education shall facilitate the transfer or establishment of positions as required by the Hawaii teacher standards board for this purpose. The department of education shall transfer one personnel specialist to the Hawaii teacher standards board on April 1, 2002.

The sums appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 16. This Act shall take effect on July 1, 2001.

(Approved July 2, 2001.)

**Note**

1. Edited pursuant to HRS §23G-16.5.