

CERTIFICATION OF ENROLLMENT  
ENGROSSED SUBSTITUTE HOUSE BILL 2518

Chapter 159, Laws of 1992

52nd Legislature  
1992 Regular Session

EDUCATIONAL EMPLOYEES--CRIMINAL HISTORY CHECKS--REVISIONS

EFFECTIVE DATE: 6/11/92

Passed by the House March 9, 1992  
Yeas 92 Nays 0

JOE KING  
**Speaker of the  
House of Representatives**

Passed by the Senate March 5, 1992  
Yeas 47 Nays 0

JOEL PRITCHARD  
**President of the Senate**

Approved April 1, 1992

BOOTH GARDNER  
**Governor of the State of Washington**

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE HOUSE BILL 2518 as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON  
**Chief Clerk**

FILED

April 1, 1992 - 10:39 a.m.

**Secretary of State  
State of Washington**

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ENGROSSED SUBSTITUTE HOUSE BILL 2518

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AS AMENDED BY THE SENATE

Passed Legislature - 1992 Regular Session

State of Washington                      52nd Legislature                      1992 Regular Session

By House Committee on Education (originally sponsored by Representatives Peery, Vance, Brumsickle, D. Sommers, Winsley, Van Luven, Bowman, Broback, Wood, Wynne, Mitchell and H. Myers; by request of Superintendent of Public Instruction and Board of Education)

Read first time 02/03/92.

1            AN ACT Relating to educational employees; amending RCW 28A.410.090,  
2 28A.410.100, and 43.43.838; reenacting and amending RCW 28A.410.010;  
3 adding new sections to chapter 28A.400 RCW; adding a new section to  
4 chapter 28A.410 RCW; adding a new section to chapter 43.43 RCW; and  
5 creating a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7            NEW SECTION.    **Sec. 1.**            The legislature finds that additional  
8 safeguards are necessary to ensure the safety of Washington's school  
9 children. The legislature further finds that the results from state  
10 patrol record checks are more complete when fingerprints of individuals  
11 are provided, and that information from the federal bureau of  
12 investigation also is necessary to obtain information on out-of-state  
13 criminal records. The legislature further finds that confidentiality  
14 safeguards in state law are in place to ensure that the rights of

1 applicants for certification or jobs and newly hired employees are  
2 protected.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.400  
4 RCW to read as follows:

5 School districts, educational service districts, and their  
6 contractors hiring employees who will have regularly scheduled  
7 unsupervised access to children shall require a record check through  
8 the Washington state patrol criminal identification system under RCW  
9 43.43.830 through 43.43.834, 10.97.030, and 10.97.050 and through the  
10 federal bureau of investigation before hiring an employee. The record  
11 check shall include a fingerprint check using a complete Washington  
12 state criminal identification fingerprint card. The requesting entity  
13 shall provide a copy of the record report to the applicant. When  
14 necessary, applicants may be employed on a conditional basis pending  
15 completion of the investigation. If the applicant has had a record  
16 check within the previous two years, the district or contractor may  
17 waive the requirement. The district, pursuant to chapter 41.59 or  
18 41.56 RCW, or contractor hiring the employee shall determine who shall  
19 pay costs associated with the record check.

20 **Sec. 3.** RCW 28A.410.010 and 1988 c 172 s 3 and 1988 c 97 s 1 are  
21 each reenacted and amended to read as follows:

22 The state board of education shall establish, publish, and enforce  
23 rules and regulations determining eligibility for and certification of  
24 personnel employed in the common schools of this state, including  
25 certification for emergency or temporary, substitute or provisional  
26 duty and under such certificates or permits as the board shall deem  
27 proper or as otherwise prescribed by law. (~~Except for applicants who~~  
28 ~~are applying for certificates which restrict the holder of the~~

1 ~~certificate to the teaching of students who are sixteen years of age or~~  
2 ~~older,))~~ The rules shall require that the initial application for  
3 certification shall require a ~~((background))~~ record check of the  
4 applicant through the Washington state patrol criminal identification  
5 system and through the federal bureau of investigation at the  
6 applicant's expense. The record check shall include a fingerprint  
7 check using a complete Washington state criminal identification  
8 fingerprint card. The superintendent of public instruction may waive  
9 the record check for any applicant who has had a record check within  
10 the two years before application.

11 In establishing rules pertaining to the qualifications of  
12 instructors of sign language the state board shall consult with the  
13 national association of the deaf, "sign instructors guidance network"  
14 (s.i.g.n.), and the Washington state association of the deaf for  
15 evaluation and certification of sign language instructors.

16 The superintendent of public instruction shall act as the  
17 administrator of any such rules and regulations and have the power to  
18 issue any certificates or permits and revoke the same in accordance  
19 with board rules and regulations.

20 **Sec. 4.** RCW 28A.410.090 and 1990 c 33 s 408 are each amended to  
21 read as follows:

22 (1) Any certificate or permit authorized under the provisions of  
23 this chapter, chapter 28A.405 RCW, or rules and regulations promulgated  
24 thereunder may be revoked or suspended by the authority authorized to  
25 grant the same upon complaint of any school district superintendent  
26 ~~((or))~~ educational service district superintendent, or private school  
27 administrator for immorality, violation of written contract,  
28 unprofessional conduct, intemperance, or crime against the law of the  
29 state.

1       If the superintendent of public instruction has reasonable cause to  
2 believe that an alleged violation of this chapter or rules adopted  
3 under it has occurred, but no complaint has been filed pursuant to this  
4 chapter, and that a school district superintendent, educational service  
5 district superintendent, or private school administrator has sufficient  
6 notice of the alleged violation and opportunity to file a complaint,  
7 the superintendent of public instruction may cause an investigation to  
8 be made of the alleged violation, together with such other matters that  
9 may be disclosed in the course of the investigation related to  
10 certificated personnel.

11       (2) Any such certificate or permit authorized under this chapter or  
12 chapter 28A.405 RCW shall be revoked by the authority authorized to  
13 grant the certificate upon a guilty plea or the conviction of any  
14 felony crime involving the physical neglect of a child under chapter  
15 9A.42 RCW, the physical injury or death of a child under chapter 9A.32  
16 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61  
17 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual  
18 offenses under chapter 9A.44 RCW where a minor is the victim, promoting  
19 prostitution of a minor under chapter 9A.88 RCW, the sale or purchase  
20 of a minor child under RCW 9A.64.030, or violation of similar laws of  
21 another jurisdiction. The person whose certificate is in question  
22 shall be given an opportunity to be heard. Mandatory permanent  
23 revocation upon a guilty plea or the conviction of felony crimes  
24 specified under this subsection shall apply to such convictions or  
25 guilty pleas which occur after July 23, 1989. Revocation of any  
26 certificate or permit authorized under this chapter or chapter 28A.405  
27 RCW for a guilty plea or criminal conviction occurring prior to July  
28 23, 1989, shall be subject to the provisions of subsection (1) of this  
29 section.

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 28A.410  
2    RCW to read as follows:

3        (1) The superintendent of public instruction may initiate and  
4    conduct investigations as may be reasonably necessary to establish the  
5    existence of any alleged violations of or noncompliance with this  
6    chapter or any rules adopted under it.    For the purpose of any  
7    investigation or proceeding under this chapter, the superintendent or  
8    any officer designated by the superintendent may administer oaths and  
9    affirmations, subpoena witnesses and compel their attendance, take  
10   evidence, and require the production of any books, papers,  
11   correspondence, memoranda, agreements, or other documents or records  
12   that the superintendent deems relevant and material to the inquiry.

13        (2) If any person fails to obey a subpoena or obeys a subpoena but  
14   refuses to give evidence, any court of competent jurisdiction, upon  
15   application by the superintendent, may issue to that person an order  
16   requiring him or her to appear before the court and to show cause why  
17   he or she should not be compelled to obey the subpoena, and give  
18   evidence material to the matter under investigation.    The failure to  
19   obey an order of the court may be punishable as contempt.

20        **Sec. 6.**    RCW 28A.410.100 and 1990 c 33 s 409 are each amended to  
21   read as follows:

22        Any teacher whose certificate to teach has been questioned (~~by the~~  
23   ~~filing of a complaint by a school district superintendent or~~  
24   ~~educational service district superintendent~~)) under RCW 28A.410.090  
25   shall have a right to be heard by the issuing authority before his or  
26   her certificate is revoked.    Any teacher whose certificate to teach has  
27   been revoked shall have a right of appeal to the state board of  
28   education if notice of appeal is given by written affidavit to the  
29   board within thirty days after the certificate is revoked.

1 An appeal to the state board of education within the time specified  
2 shall operate as a stay of revocation proceedings until the next  
3 regular or special meeting of said board and until the board's decision  
4 has been rendered.

5 **Sec. 7.** RCW 43.43.838 and 1990 c 3 s 1104 are each amended to read  
6 as follows:

7 (1) After January 1, 1988, and notwithstanding any provision of RCW  
8 43.43.700 through 43.43.810 to the contrary, the state patrol shall  
9 furnish a transcript of the conviction record, disciplinary board final  
10 decision and any subsequent criminal charges associated with the  
11 conduct that is the subject of the disciplinary board final decision,  
12 or civil adjudication record pertaining to any person for whom the  
13 state patrol or the federal bureau of investigation has a record upon  
14 the written request of:

15 (a) The subject of the inquiry;

16 (b) Any business or organization for the purpose of conducting  
17 evaluations under RCW 43.43.832;

18 (c) The department of social and health services;

19 (d) Any law enforcement agency, prosecuting authority, or the  
20 office of the attorney general; or

21 (e) The department of social and health services for the purpose of  
22 meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or  
23 72.23 RCW, or any later-enacted statute which purpose is to regulate or  
24 license a facility which handles vulnerable adults. However, access to  
25 conviction records pursuant to this subsection (1)(e) does not limit or  
26 restrict the ability of the department to obtain additional information  
27 regarding conviction records and pending charges as set forth in RCW  
28 74.15.030(2)(b).

1 After processing the request, if the conviction record,  
2 disciplinary board final decision and any subsequent criminal charges  
3 associated with the conduct that is the subject of the disciplinary  
4 board final decision, or adjudication record shows no evidence of a  
5 crime against children or other persons or, in the case of vulnerable  
6 adults, no evidence of crimes relating to financial exploitation in  
7 which the victim was a vulnerable adult, an identification declaring  
8 the showing of no evidence shall be issued to the applicant by the  
9 state patrol and shall be issued within fourteen working days of the  
10 request. Possession of such identification shall satisfy future  
11 ((background)) record check requirements for the applicant for a two-  
12 year period unless the prospective employee is any current school  
13 district employee who has applied for a position in another school  
14 district.

15 (2) The state patrol shall by rule establish fees for disseminating  
16 records under this section to recipients identified in subsection  
17 (1)(a) and (b) of this section. The state patrol shall also by rule  
18 establish fees for disseminating records in the custody of the national  
19 crime information center. The revenue from the fees shall cover, as  
20 nearly as practicable, the direct and indirect costs to the state  
21 patrol of disseminating the records: PROVIDED, That no fee shall be  
22 charged to a nonprofit organization(~~(, including school districts and~~  
23 ~~educational service districts,~~) for the records check: PROVIDED  
24 FURTHER, That in the case of record checks using fingerprints requested  
25 by school districts and educational service districts, the state patrol  
26 shall charge only for the incremental costs associated with checking  
27 fingerprints in addition to name and date of birth. Record checks  
28 requested by school districts and educational service districts using  
29 only name and date of birth shall continue to be provided free of  
30 charge.



1 (3) No employee of the state, employee of a business or  
2 organization, or the business or organization is liable for defamation,  
3 invasion of privacy, negligence, or any other claim in connection with  
4 any lawful dissemination of information under RCW 43.43.830 through  
5 43.43.840 or 43.43.760.

6 (4) Before July 26, 1987, the state patrol shall adopt rules and  
7 forms to implement this section and to provide for security and privacy  
8 of information disseminated under this section, giving first priority  
9 to the criminal justice requirements of this chapter. The rules may  
10 include requirements for users, audits of users, and other procedures  
11 to prevent use of civil adjudication record information or criminal  
12 history record information inconsistent with this chapter.

13 (5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an  
14 employer to make an inquiry not specifically authorized by this  
15 chapter, or be construed to affect the policy of the state declared in  
16 chapter 9.96A RCW.

17 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.43 RCW  
18 to read as follows:

19 The fingerprint identification account is created in the custody of  
20 the state treasurer. All receipts from incremental charges of  
21 fingerprint checks requested by school districts shall be deposited in  
22 the account. Receipts for fingerprint checks by the federal bureau of  
23 investigation may also be deposited in the account. Expenditures from  
24 the account may be used only for the cost of record checks. Only the  
25 chief of the state patrol or the chief's designee may authorize  
26 expenditures from the account. The account is subject to allotment  
27 procedures under chapter 43.88 RCW. No appropriation is required for  
28 expenditures prior to July 1, 1995. After June 30, 1995, the account  
29 shall be subject to appropriation.

1        NEW SECTION.    **Sec. 9.**    A new section is added to chapter 28A.400

2    RCW to read as follows:

3        The state patrol shall accept fingerprints obtained under this  
4    chapter only if it can ensure that the patrol will not retain a record  
5    of the fingerprints after the check is complete. It shall not forward  
6    fingerprints obtained under this chapter to the federal bureau of  
7    investigation unless it can ensure that the federal bureau of  
8    investigation will not retain a record of the fingerprints after the  
9    check is complete. The state patrol shall report to the house of  
10   representatives appropriations committee and the senate ways and means  
11   committee on measures taken to implement this section before accepting  
12   any fingerprints obtained under this chapter.

      Passed the House March 9, 1992.

      Passed the Senate March 5, 1992.

      Approved by the Governor April 1, 1992.

      Filed in Office of Secretary of State April 1, 1992.