
SECOND SUBSTITUTE SENATE BILL 6272

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators McAuliffe, Long, Fairley, Winsley, Fraser, Kohl, Drew, Smith, Thibaudeau, Prentice, Wojahn, Snyder, Sheldon, Loveland, Bauer, Franklin, Rinehart, Haugen, Rasmussen, Owen, Heavey, Quigley, Oke, Schow and Roach)

Read first time 02/02/96.

1 AN ACT Relating to record checks of educational employees; amending
2 RCW 28A.410.090; adding new sections to chapter 28A.400 RCW; creating
3 new sections; providing expiration dates; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) By June 30, 1997, school districts,
6 educational service districts, and their contractors shall require that
7 all employees who have regularly scheduled unsupervised access to
8 children and were hired before June 11, 1992, undergo a record check
9 through the Washington state patrol criminal identification system
10 under RCW 43.43.830 through 43.43.838, 10.97.030, and 10.97.050 and
11 through the federal bureau of investigation. The record check shall
12 include a fingerprint check using a complete Washington state criminal
13 identification fingerprint card. The superintendent of public
14 instruction shall provide a copy of the record report to the employee.
15 Once an employee has a record check as required under this section,
16 additional record checks shall not be required of the employee unless
17 required by other provisions of law.

18 (2) Employees, school districts, and educational service districts
19 shall not be required by the state patrol or superintendent of public

1 instruction to pay for the record check required in subsection (1) of
2 this section.

3 (3) The record checks required in this section shall be in process
4 no later than June 30, 1997.

5 (4) This section expires March 31, 1998.

6 **Sec. 2.** RCW 28A.410.090 and 1992 c 159 s 4 are each amended to
7 read as follows:

8 (1) Any certificate or permit authorized under the provisions of
9 this chapter, chapter 28A.405 RCW, or rules ((and—regulations))
10 promulgated thereunder may be revoked or suspended by the authority
11 authorized to grant the same based upon a criminal records report
12 authorized by law, or upon the complaint of any school district
13 superintendent, educational service district superintendent, or private
14 school administrator for immorality, violation of written contract,
15 unprofessional conduct, intemperance, or crime against the law of the
16 state.

17 If the superintendent of public instruction has reasonable cause to
18 believe that an alleged violation of this chapter or rules adopted
19 under it has occurred, but no complaint has been filed pursuant to this
20 chapter, and that a school district superintendent, educational service
21 district superintendent, or private school administrator has sufficient
22 notice of the alleged violation and opportunity to file a complaint,
23 the superintendent of public instruction may cause an investigation to
24 be made of the alleged violation, together with such other matters that
25 may be disclosed in the course of the investigation related to
26 certificated personnel.

27 (2) Any such certificate or permit authorized under this chapter or
28 chapter 28A.405 RCW shall be revoked by the authority authorized to
29 grant the certificate upon a guilty plea or the conviction of any
30 felony crime involving the physical neglect of a child under chapter
31 9A.42 RCW, the physical injury or death of a child under chapter 9A.32
32 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61
33 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual
34 offenses under chapter 9A.44 RCW where a minor is the victim, promoting
35 prostitution of a minor under chapter 9A.88 RCW, the sale or purchase
36 of a minor child under RCW 9A.64.030, or violation of similar laws of
37 another jurisdiction. The person whose certificate is in question
38 shall be given an opportunity to be heard. Mandatory permanent

1 revocation upon a guilty plea or the conviction of felony crimes
2 specified under this subsection shall apply to such convictions or
3 guilty pleas which occur after July 23, 1989. Revocation of any
4 certificate or permit authorized under this chapter or chapter 28A.405
5 RCW for a guilty plea or criminal conviction occurring prior to July
6 23, 1989, shall be subject to the provisions of subsection (1) of this
7 section.

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

10 (1) When a record check required under section 1 of this act
11 indicates that a classified employee has been convicted of a crime, the
12 employer shall consider the following when making employment decisions
13 pertaining to the individual:

14 (a) The age and maturity of the individual at the time the crime
15 was committed;

16 (b) The seriousness of the crime and any mitigating factors;

17 (c) The likelihood that the crime will be repeated;

18 (d) The proximity in time of the crime;

19 (e) Evidence that would support good moral character and personal
20 fitness; and

21 (f) Other appropriate factors.

22 (2) This section expires March 31, 1998.

23 NEW SECTION. **Sec. 4.** (1) Any classified employee or certificated
24 employee dismissed or otherwise adversely affected as a result of a
25 conviction identified in the record check required under section 1 of
26 this act shall be allowed to appeal under the appropriate statutes,
27 including, but not limited to, RCW 28A.400.320 and 28A.400.340 and
28 chapters 28A.645 and 28A.405 RCW.

29 (2) This section expires March 31, 1998.

30 NEW SECTION. **Sec. 5.** A new section is added to chapter 28A.400
31 RCW to read as follows:

32 The superintendent of public instruction shall adopt rules as
33 necessary under chapter 34.05 RCW on record check information. The
34 rules shall include, but not be limited to the following:

35 (1) Written procedures providing a school district employee or
36 applicant for certification or employment access to and review of

1 information obtained based on the record check required under RCW
2 28A.400.303 and section 1 of this act; and

3 (2) Written procedures limiting access to the superintendent of
4 public instruction record check data base to only those individuals
5 processing record check information at the office of the superintendent
6 of public instruction, the appropriate school district or districts,
7 and the appropriate educational service district or districts.

8 NEW SECTION. **Sec. 6.** If specific funding for the purposes of this
9 act, referencing this act by bill or chapter number, is not provided by
10 June 30, 1996, in the omnibus appropriations act, this act is null and
11 void.

12 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
13 preservation of the public peace, health, or safety, or support of the
14 state government and its existing public institutions, and shall take
15 effect immediately.

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