

2 **SHB 2518** - H COMM AMD **ADOPTED 2/18/92**

3 By Committee on Appropriations

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5 Strike everything after the enacting clause and insert the
6 following:

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 background checks are more complete when fingerprints of
11 individuals are provided, and that information from the federal bureau
12 of investigation also is necessary to obtain information on out-of-
13 state criminal records. The legislature further finds that
14 confidentiality safeguards in state law are in place to ensure that the
15 rights of applicants for certification or jobs and newly hired
16 employees are protected."

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

19 School districts, educational service districts, and their
20 contractors shall require a record check through the Washington state
21 patrol criminal identification system under RCW 43.43.830 through
22 43.43.834, 10.97.030, and 10.97.050 and through the federal bureau of
23 investigation before hiring an employee. The record check shall
24 include a fingerprint check using a complete Washington state criminal
25 identification fingerprint card. The requesting entity shall provide
26 a copy of the record report to the applicant. When necessary,
27 applicants may be employed on a conditional basis pending completion of

1 the investigation. If the applicant has had a record check within the
2 previous two years, the district or contractor may waive the
3 requirement. The district, pursuant to chapter 41.59 or 41.56 RCW, or
4 contractor hiring the employee or using volunteers shall determine who
5 shall pay costs associated with the record check."

6 "Sec. 3. RCW 28A.410.010 and 1988 c 172 s 3 and 1988 c 97 s 1 are
7 each reenacted and amended to read as follows:

8 The state board of education shall establish, publish, and enforce
9 rules and regulations determining eligibility for and certification of
10 personnel employed in the common schools of this state, including
11 certification for emergency or temporary, substitute or provisional
12 duty and under such certificates or permits as the board shall deem
13 proper or as otherwise prescribed by law. (~~Except for applicants who~~
14 ~~are applying for certificates which restrict the holder of the~~
15 ~~certificate to the teaching of students who are sixteen years of age or~~
16 ~~older,~~) The rules shall require that the initial application for
17 certification shall require a ((background)) record check of the
18 applicant through the Washington state patrol criminal identification
19 system and through the federal bureau of investigation at the
20 applicant's expense. The record check shall include a fingerprint
21 check using a complete Washington state criminal identification
22 fingerprint card. The superintendent of public instruction may waive
23 the record check for any applicant who has had a record check within
24 the two years before application.

25 In establishing rules pertaining to the qualifications of
26 instructors of sign language the state board shall consult with the
27 national association of the deaf, "sign instructors guidance network"
28 (s.i.g.n.), and the Washington state association of the deaf for
29 evaluation and certification of sign language instructors.

1 The superintendent of public instruction shall act as the
2 administrator of any such rules and regulations and have the power to
3 issue any certificates or permits and revoke the same in accordance
4 with board rules and regulations."

5 "Sec. 4. RCW 28A.410.090 and 1990 c 33 s 408 are each amended to
6 read as follows:

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

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

25 (2) Any such certificate or permit authorized under this chapter or
26 chapter 28A.405 RCW shall be revoked by the authority authorized to
27 grant the certificate upon a guilty plea or the conviction of any
28 felony crime involving the physical neglect of a child under chapter
29 9A.42 RCW, the physical injury or death of a child under chapter 9A.32

1 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61
2 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual
3 offenses under chapter 9A.44 RCW where a minor is the victim, promoting
4 prostitution of a minor under chapter 9A.88 RCW, the sale or purchase
5 of a minor child under RCW 9A.64.030, or violation of similar laws of
6 another jurisdiction. The person whose certificate is in question
7 shall be given an opportunity to be heard. Mandatory permanent
8 revocation upon a guilty plea or the conviction of felony crimes
9 specified under this subsection shall apply to such convictions or
10 guilty pleas which occur after July 23, 1989. Revocation of any
11 certificate or permit authorized under this chapter or chapter 28A.405
12 RCW for a guilty plea or criminal conviction occurring prior to July
13 23, 1989, shall be subject to the provisions of subsection (1) of this
14 section."

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

17 (1) The superintendent of public instruction may initiate and
18 conduct investigations as may be reasonably necessary to establish the
19 existence of any alleged violations of or noncompliance with this
20 chapter or any rules adopted under it. For the purpose of any
21 investigation or proceeding under this chapter, the superintendent or
22 any officer designated by the superintendent may administer oaths and
23 affirmations, subpoena witnesses and compel their attendance, take
24 evidence, and require the production of any books, papers,
25 correspondence, memoranda, agreements, or other documents or records
26 that the superintendent deems relevant and material to the inquiry.

27 (2) If any person fails to obey a subpoena or obeys a subpoena but
28 refuses to give evidence, any court of competent jurisdiction, upon
29 application by the superintendent, may issue to that person an order

1 requiring him or her to appear before the court and to show cause why
2 he or she should not be compelled to obey the subpoena, and give
3 evidence material to the matter under investigation. The failure to
4 obey an order of the court may be punishable as contempt."

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

7 Any teacher whose certificate to teach has been questioned (~~by the~~
8 ~~filing of a complaint by a school district superintendent or~~
9 ~~educational service district superintendent~~)) under RCW 28A.410.090
10 shall have a right to be heard by the issuing authority before his or
11 her certificate is revoked. Any teacher whose certificate to teach has
12 been revoked shall have a right of appeal to the state board of
13 education if notice of appeal is given by written affidavit to the
14 board within thirty days after the certificate is revoked.

15 An appeal to the state board of education within the time specified
16 shall operate as a stay of revocation proceedings until the next
17 regular or special meeting of said board and until the board's decision
18 has been rendered."

19 "Sec. 7. RCW 43.43.838 and 1990 c 3 s 1104 are each amended to
20 read as follows:

21 (1) After January 1, 1988, and notwithstanding any provision of RCW
22 43.43.700 through 43.43.810 to the contrary, the state patrol shall
23 furnish a transcript of the conviction record, disciplinary board final
24 decision and any subsequent criminal charges associated with the
25 conduct that is the subject of the disciplinary board final decision,
26 or civil adjudication record pertaining to any person for whom the
27 state patrol or the federal bureau of investigation has a record upon
28 the written request of:

1 (a) The subject of the inquiry;

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

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

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

7 (e) The department of social and health services for the purpose of
8 meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or
9 72.23 RCW, or any later-enacted statute which purpose is to regulate or
10 license a facility which handles vulnerable adults. However, access to
11 conviction records pursuant to this subsection (1)(e) does not limit or
12 restrict the ability of the department to obtain additional information
13 regarding conviction records and pending charges as set forth in RCW
14 74.15.030(2)(b).

15 After processing the request, if the conviction record,
16 disciplinary board final decision and any subsequent criminal charges
17 associated with the conduct that is the subject of the disciplinary
18 board final decision, or adjudication record shows no evidence of a
19 crime against children or other persons or, in the case of vulnerable
20 adults, no evidence of crimes relating to financial exploitation in
21 which the victim was a vulnerable adult, an identification declaring
22 the showing of no evidence shall be issued to the applicant by the
23 state patrol and shall be issued within fourteen working days of the
24 request. Possession of such identification shall satisfy future
25 background check requirements for the applicant for a two-year period
26 unless the prospective employee is any current school district employee
27 who has applied for a position in another school district.

28 (2) The state patrol shall by rule establish fees for disseminating
29 records under this section to recipients identified in subsection
30 (1)(a) and (b) of this section. The state patrol shall also by rule

1 establish fees for disseminating records in the custody of the national
2 crime information center. The revenue from the fees shall cover, as
3 nearly as practicable, the direct and indirect costs to the state
4 patrol of disseminating the records: PROVIDED, That no fee shall be
5 charged to a nonprofit organization(~~(, including school districts and~~
6 ~~educational service districts,~~)) for the records check: PROVIDED
7 FURTHER, That in the case of background checks using fingerprints
8 requested by school districts and educational service districts, the
9 state patrol shall charge only for the incremental costs associated
10 with checking fingerprints in addition to name and date of birth.
11 Background checks requested by school districts and educational service
12 districts using only name and date of birth shall continue to be
13 provided free of charge.

14 (3) No employee of the state, employee of a business or
15 organization, or the business or organization is liable for defamation,
16 invasion of privacy, negligence, or any other claim in connection with
17 any lawful dissemination of information under RCW 43.43.830 through
18 43.43.840 or 43.43.760.

19 (4) Before July 26, 1987, the state patrol shall adopt rules and
20 forms to implement this section and to provide for security and privacy
21 of information disseminated under this section, giving first priority
22 to the criminal justice requirements of this chapter. The rules may
23 include requirements for users, audits of users, and other procedures
24 to prevent use of civil adjudication record information or criminal
25 history record information inconsistent with this chapter.

26 (5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an
27 employer to make an inquiry not specifically authorized by this
28 chapter, or be construed to affect the policy of the state declared in
29 chapter 9.96A RCW."

1 "NEW SECTION. **Sec. 8.** A new section is added to chapter 43.43 RCW
2 to read as follows:

3 The fingerprint identification account is created in the custody of
4 the state treasurer. All receipts from incremental charges of
5 fingerprint checks requested by school districts shall be deposited in
6 the account. Receipts for fingerprint checks by the federal bureau of
7 investigation may also be deposited in the account. Expenditures from
8 the account may be used only for the cost of background checks. Only
9 the chief of the state patrol or the chief's designee may authorize
10 expenditures from the account. The account is subject to allotment
11 procedures under chapter 43.88 RCW. No appropriation is required for
12 expenditures prior to July 1, 1995. After June 30, 1995, the account
13 shall be subject to appropriation."

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

16 The state patrol shall accept fingerprints obtained under this
17 chapter only if it can ensure that the patrol will not retain a record
18 of the fingerprints after the check is complete. It shall not forward
19 fingerprints obtained under this chapter to the federal bureau of
20 investigation unless it can ensure that the federal bureau of
21 investigation will not retain a record of the fingerprints after the
22 check is complete. The state patrol shall report to the house of
23 representatives appropriations committee and the senate ways and means
24 committee on measures taken to implement this section before accepting
25 any fingerprints obtained under this chapter."

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1 On page 1, line 1 of the title, after "employees;" strike the
2 remainder of the title and insert "amending RCW 28A.410.090,
3 28A.410.100, and 43.43.838; reenacting and amending RCW 28A.410.010;
4 adding new sections to chapter 28A.400 RCW; adding a new section to
5 chapter 28A.410 RCW; adding a new section to chapter 43.43 RCW; and
6 creating a new section."