
HOUSE BILL 1984

State of Washington**52nd Legislature****1991 Regular Session**

By Representatives Brumsickle, Dorn, Peery and Paris; by request of Superintendent of Public Instruction and Board of Education.

Read first time February 18, 1991. Referred to Committee on State Government.

1 AN ACT Relating to certification of personnel employed in the
2 common schools; adding new sections to chapter 28A.410 RCW; adding a
3 new section to chapter 42.17 RCW; creating a new section; prescribing
4 penalties; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature intends to ensure that
7 fair and effective enforcement of laws governing certification of
8 personnel employed in the common schools of this state is not adversely
9 affected by the Washington supreme court decision in *Brouillet v.*
10 *Cowles Publishing Co.*, 114 Wash. 2d 788 (1990). The intent of this
11 legislation is to clarify that the term "law enforcement" as used in
12 RCW 42.17.310(1)(d) is intended to include within its definition the
13 activities of state agencies vested with the responsibility of
14 disciplining members of any profession, specifically the enforcement of
15 rules of the state board of education determining eligibility for and

1 certification of personnel employed in the common schools by the
2 superintendent of public instruction in accordance with chapter 28A.410
3 RCW.

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

6 (1) The contents of any investigative file compiled by the
7 superintendent of public instruction for the purpose of enforcing rules
8 under RCW 28A.410.010 or 28A.410.090 shall be confidential and exempt
9 from public disclosure under chapter 42.17 RCW, except that it may be
10 reviewed by (a) the certificate holder involved or his or her counsel
11 or authorized representative, after the initiation of disciplinary
12 proceedings, in a manner consistent with the civil rules of discovery
13 for the superior courts of the state of Washington; or (b) by the
14 superintendent or his or her representative or designee.

15 (2) All notices, proposed orders, final orders, and other matters
16 of record in such proceedings shall be subject to disclosure under
17 chapter 42.17 RCW. Following final disposition, the contents of
18 investigative files in subsection (1) of this section shall be subject
19 to disclosure with the exception of records that would not be available
20 to another party under the rules of pretrial discovery for causes
21 pending in the superior courts or information that might facilitate
22 identification of complaining victims or witnesses.

23 **NEW SECTION.** **Sec. 3.** A new section is added to chapter 28A.410
24 RCW to read as follows:

25 (1) The superintendent of public instruction may initiate and
26 conduct investigations as may be reasonably necessary to establish the
27 existence of any alleged violations of or noncompliance with this
28 chapter or any rules issued under it. For the purpose of any

1 investigation or proceeding under this chapter, the superintendent or
2 any officer designated by him or her may administer oaths and
3 affirmations, subpoena witnesses, compel their attendance, take
4 evidence, and require the production of any books, papers,
5 correspondence, memoranda, agreements, or other documents or records
6 that the superintendent deems relevant and material to the inquiry.

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

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 42.17 RCW
15 to read as follows:

16 This chapter shall not apply to investigative files compiled by the
17 superintendent of public instruction as provided for in sections 2 and
18 3 of this act.

19 NEW SECTION. **Sec. 5.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and shall take
26 effect immediately.