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**SUBSTITUTE SENATE BILL 6240**

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**State of Washington**

**52nd Legislature**

**1992 Regular Session**

**By** Senate Committee on Education (originally sponsored by Senators Bailey, Rinehart, Amondson and Skratek; by request of Superintendent of Public Instruction and Board of Education)

Read first time 02/07/92.

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

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

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

1 rights of applicants for certification or jobs and newly hired  
2 employees are 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 shall require a record check through the Washington state  
7 patrol criminal identification system under RCW 43.43.830 through  
8 43.43.834, 10.97.030, and 10.97.050 and through the federal bureau of  
9 investigation before hiring an employee. The record check shall  
10 include a fingerprint check using a complete Washington state criminal  
11 identification fingerprint card. The requesting entity shall provide  
12 a copy of the record report to the applicant. When necessary,  
13 applicants may be employed on a conditional basis pending completion of  
14 the investigation. The school district or educational service district  
15 may require record checks of volunteers. If the applicant has had a  
16 record check within the previous two years, the district or contractor  
17 may waive the requirement. The district, pursuant to chapter 41.59 or  
18 41.56 RCW, or contractor hiring the employee or using volunteers shall  
19 determine who shall 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.