

SSB 6171 - H COMM AMD
By Committee on Education

ADOPTED 03/04/2004

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 28A.410.095 and 1992 c 159 s 5 are each amended to
4 read as follows:

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

15 (2) Investigations conducted by the superintendent of public
16 instruction concerning alleged sexual misconduct towards a child shall
17 be completed within one year of the initiation of the investigation or
18 within thirty days of the completion of all proceedings, including
19 court proceedings, resulting from an investigation conducted by law
20 enforcement or child protective services if there is such an
21 investigation. The superintendent of public instruction may take, for
22 reasonable cause, additional time for completion of the investigation
23 after informing the victim, the individual being investigated, and the
24 school district that employs the individual being investigated of the
25 reasons additional time is needed and the amount of additional time
26 needed. Written notification must be provided to each of the parties
27 who must be informed. The sole remedy for a failure to complete an
28 investigation of sexual misconduct within the time allowed by this
29 subsection is a civil penalty of fifty dollars per day for each day
30 beyond the allowed time.

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

8 (4) Once an investigation has been initiated by the superintendent
9 of public instruction, the investigation shall be completed regardless
10 of whether the individual being investigated has resigned his or her
11 position or allowed his or her teaching certificate to lapse. The
12 superintendent shall make a written finding regarding each
13 investigation indicating the actions taken, including a statement of
14 the reasons why a complaint was dismissed or did not warrant further
15 investigation or action by the superintendent, and shall provide such
16 notice to each person who filed the complaint. Written findings under
17 this section are subject to public disclosure under chapter 42.17 RCW.

18 (5) An investigation into sexual or physical abuse of a student by
19 a school employee shall only be initiated by the superintendent of
20 public instruction after the superintendent of public instruction
21 verifies that the incident has been reported to the proper law
22 enforcement agency or the department of social and health services as
23 required under RCW 26.44.030.

24 **Sec. 2.** RCW 28A.410.090 and 1996 c 126 s 2 are each amended to
25 read as follows:

26 (1) Any certificate or permit authorized under the provisions of
27 this chapter, chapter 28A.405 RCW, or rules promulgated thereunder may
28 be revoked or suspended by the authority authorized to grant the same
29 based upon a criminal records report authorized by law, or upon the
30 complaint of any school district superintendent, educational service
31 district superintendent, or private school administrator for
32 immorality, violation of written contract, unprofessional conduct,
33 intemperance, or crime against the law of the state.

34 If the superintendent of public instruction has reasonable cause to
35 believe that an alleged violation of this chapter or rules adopted
36 under it has occurred based on a written complaint filed by a parent or

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

11 (2) A parent or another person may file a written complaint with
12 the superintendent of public instruction alleging that a certificated
13 school employee has committed a violation of this chapter or rules
14 adopted under it if:

15 (a) The parent or other person has already filed a written
16 complaint with the educational service district superintendent
17 concerning that employee;

18 (b) The educational service district superintendent has not caused
19 an investigation of the allegations and has not forwarded the complaint
20 to the superintendent of public instruction for investigation; and

21 (c) The written complaint states the grounds and factual basis upon
22 which the parent or other person believes an investigation should be
23 conducted.

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

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

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6 On page 1, line 2 of the title, after "instruction;" strike the
7 remainder of the title and insert "amending RCW 28A.410.095 and
8 28A.410.090; and prescribing penalties."

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