

FINAL BILL REPORT

E2SSB 5533

C 29 L 04

Synopsis as Enacted

Brief Description: Providing increased access to information on disciplinary actions taken against school employees.

Sponsors: Senate Committee on Education (originally sponsored by Senators Kohl-Welles, Johnson, McAuliffe, Carlson, Keiser, Rasmussen and Kline).

Senate Committee on Education

House Committee on Education

Background: Under current law, a school district must perform a fingerprint-record check when hiring a staff person who will have regularly scheduled unsupervised access to children. All classroom teachers must have a fingerprint record check when they apply for their teaching certificate.

Under the Public Disclosure Act, public records maintained by an agency concerning its own employees are available for public inspection unless a specific provision of the law exempts the record from disclosure. The act applies to personnel files held by school districts and permits a hiring school district to request records from another school district that was the prior employer of an applicant. The act does not require one school district to request any records. The act contains an extensive list of statutory exemptions to disclosure that includes an exemption for personal information of public employees to the extent that disclosure would violate that employee's "right to privacy" and an exemption for the residential addresses and phone numbers of the employee.

A person's "right to privacy" is violated only if disclosure of the information about the person (1) would be highly offensive to a reasonable person, and (2) is not a legitimate concern to the public.

Summary: Certificated and classified school district employees who apply to another school district must sign a release authorizing the disclosure of any sexual misconduct information, including any related documents in their personnel files. Hiring school districts must request from all of the applicant's previous school district employers any information about that employee's sexual misconduct including related documents. The information must be provided within 20 days of receiving the request.

School districts that provide the required information are provided immunity when the information is provided in good faith. Sexual misconduct information is only used to evaluate the applicant's qualifications for the position for which he or she has applied and the information is not disclosed to anyone not directly involved in the evaluation process. A person who wrongfully discloses information is guilty of a misdemeanor.

School districts that are considering applicants for certificated positions must request verification of the applicant's certification status and sexual misconduct information in the applicant's files from the Office of the Superintendent of Public Instruction (OSPI).

Applicants may be employed on a conditional basis pending review of any sexual misconduct information. School districts must not hire an applicant who refuses to sign the release.

Starting on September 1, 2004, school districts are prohibited from entering into employment contracts or severance agreements which call for sealing records of verbal or physical abuse or sexual misconduct. This prohibition does not apply to existing contracts or agreements.

At the conclusion of a district's investigation, school personnel are allowed to review their personnel, investigative, or other files relating to sexual misconduct and attach rebuttals as the employee deems necessary. These rebuttal documents must also be disclosed.

The State Board of Education defines "verbal abuse," "physical abuse" and "sexual misconduct" for application to both classified and certificated employees for purposes of this bill. The definition adopted by the board must include a requirement that the school district make a determination that there is sufficient information to conclude that the abuse or misconduct occurred and that the employee is leaving due to that misconduct.

Districts must provide parents with information regarding their rights under the Washington Public Disclosure Act to request employee records regarding disciplinary action.

OSPI must report all types of disciplinary action taken to the national database to the extent that information is accepted.

If there has been a report of sexual misconduct, the school district must notify the parents of the student who is the victim of that misconduct within 48 hours of receiving the report.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 10, 2004